



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 15TH DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 104351 OF 2018 (MV-I)

BETWEEN:

RAJKUMAR S/O. NAGAPPA DHAMANekar
AGE:37 YEARS,
OCC: CONSTRUCTION GOUNDI COOLIE, NOW NIL,
R/O. GUGRENATTI-590012,
TQ AND DIST:BELAGAVI.

...APPELLANT

(BY SRI HANAMANT R. LATUR, ADVOCATE)

AND:

1. SIKANDAR S/O. NAJEERSAB NAIKWADI
AGE:50 YEARS, OCC: BUSINESS,
R/O. GAJABARWADI ROAD,
GAJBARWADI-591307.
TQ:HUKKERI, DIST:BELAGAVI.

2. IFFCO TOKIO GENERAL INSURANCE CO. LTD.,
SHJIKSHAK BHAVAN,
COLLEGE ROAD, BELAGAVI-590001,
TQ. AND DIST.:BELAGVI.

...RESPONDENTS

(BY SRI SUBHASH J. BADDI, ADVOCATE FOR R2;
R1-NOTICE HELD SUFFICIENT)

THIS MFA IS FILED U/S.173(1) OF MOTOR VEHICLES ACT,
PRAYING TO ENHANCE THE COMPENSATION BY MODIFYING THE
JUDGMENT AND AWARD DATED 14.06.2018 PASSED IN MVC



NO.2540/2015 ON THE FILE OF THE IX ADDITIONAL DISTRICT AND SESSIONS JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BELAGAVI, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE S G PANDIT)

The claimant/appellant is before this Court not being satisfied with the quantum of compensation awarded by the Tribunal under Judgment and Award dated 14.06.2018 in MVC No.2540/2015 on the file of IX Additional District and Sessions Judge and Additional MACT, Belagavi (for short, 'Tribunal').

2. The parties would be referred to as per their rankings before the Tribunal.

3. Brief facts of the case are that the appellant/injured filed a claim petition under Section 166 of the Motor Vehicles Act seeking compensation for the injuries sustained by him in a road traffic accident that occurred on



08.11.2014 involving Tempo bearing No.KA-23/5931. It is stated that the claimant sustained grievous injuries and that he spent for treatment more than ₹.5,00,000/- as an inpatient. Further, it is also stated that he was aged 34 years and working as a goundi and was earning more than ₹.22,000/- per month. Further, it is stated that the right hand is amputated below shoulder and above elbow. As such, the petitioner claimed compensation for the injuries sustained by him.

4. On receipt of notice, the respondent-Insurance Company appeared and filed its objection statement denying the contents of the petition and also contending that the compensation sought is exorbitant. Further, the insurer contended that the tempo was carrying more than 20 passengers as against a 12+1 seating capacity, thereby violating the conditions of insurance policy. It is also contended that the driver of the said tempo was not holding a valid and effective driving licence at the time of accident. Hence, prayed for dismissal of claim petition.



5. The claimant examined himself as P.W.1 apart from examining P.W.2-doctor and marked Exs.P.1 to P.14. Whereas, the respondent examined R.W.1 and R.W.2 and marked Exs.R.1 to R.12.

6. The Tribunal on consideration of the material on record, awarded total compensation of ₹.8,20,816/-. While awarding the above compensation, the Tribunal assessed the income of the injured/appellant at ₹.6,000/- per month, assessed the whole body disability at 50% and applied multiplier of 15. Further, the Tribunal saddled the liability on respondent No.1-owner.

7. Heard the learned counsels for the parties. Perused the appeal papers.

8. Learned counsel for appellant/claimant, Sri Hanamant R Latur would contend that since the Tribunal has come to the conclusion that the driver of the offending vehicle had no valid licence to drive the vehicle, the Tribunal ought to have passed pay and recovery order and



in that regard, he places reliance on Full Bench decision of this Court in the case of ***New India Assurance Company Limited vs. Yallavva and Others*** reported in ***ILR 2020 KAR 2239***.

9. Learned counsel for appellant would contend that the income assessed by the Tribunal at ₹.6,000/- per month of the claimant is on lower side and he submits that the notional income taken for the accidents of the year 2014 in terms of the chart prepared by the Karnataka State Legal Services Authority would be ₹.7,500/- per month. Therefore, he prays to reassess the notional income of the appellant/injured.

10. Learned counsel would further submit that the Tribunal also committed an error in assessing the whole body disability of the claimant/appellant at 50%. It is his submission that when the right hand is amputated above elbow and below shoulder, the Tribunal ought to have assessed the whole body disability more than 50% and



further he submits that since the claimant was working as a goundi, he would not be in a position to carry out the goundi work. As such, the whole body disability is to be reassessed at 100%. In that regard, learned counsel also places reliance on the decision of the Hon'ble Apex Court in Civil Appeal No.2183/2025 dated 11.09.2025 (**Chandra Mogera vs. Santhosh A Ganachari and Another**).

11. Further, learned counsel would also submit that the Tribunal has failed to award any amount on the head of artificial limb and for future medical expenses. Thus, he would also pray for awarding compensation on the said head. Thus, he would pray for allowing the appeal.

12. Per contra, learned counsel for respondent Sri Subhash J Baddi would submit that the compensation awarded by the Tribunal and assessment of whole body disability at 50% is proper and reasonable. Hence, no interference is called for. Learned counsel would submit that the claimant/appellant though has suffered amputation of



right hand, he could attend to other works, it is not that the claimant/appellant has been immobilized by the injuries sustained in the motor vehicle accident.

13. Further, with regard to pay and recovery, learned counsel Sri Subhash J Baddi would submit that the Tribunal has rightly saddled liability on the owner as the owner with the knowledge that driver had no valid driving licence, entrusted the vehicle to such driver. Further, he also submits that the owner has allowed to travel more passengers than the permitted capacity. Thus, he would pray for dismissal of the appeal.

14. Having heard the learned counsels for the parties and on perusal of entire appeal papers, the following points would arise for consideration:

1. Whether the Tribunal is justified in saddling liability on first respondent-owner?



2. Whether the income of the claimant/appellant assessed by the Tribunal is proper and correct?
3. Whether the claimant/appellant would be entitled for enhanced compensation?

15. Our finding on the above points is as under:

Point No.1 : Partly Negative;

Point No.2 : Negative;

Point No.3 : Affirmative for the following reasons;

16. The accident which took place on 08.11.2014 involving tempo bearing No.KA-23/5931 and the grievous injuries sustained by the claimant/appellant is not in dispute in this appeal. The claimant is in appeal praying for enhanced compensation as well as praying for pay and recovery order.

17. The Tribunal having come to the conclusion that the driver of the offending vehicle tempo had no valid driving licence as on the date of accident ought to have ordered for pay and recovery. The contention of learned



counsel for respondent-Insurance Company that the owner had entrusted the vehicle willfully to a person, who had no driving licence and that the owner had permitted more passengers than the permitted capacity cannot be accepted and the said submission is unsustainable. It is concluded that the driver of the offending vehicle had no valid licence as on the date of accident. If that is so, the decision of Full Bench of this Court in **Yallavva** (supra) would be squarely applicable. If the owner had permitted traveling of more passengers than the permitted capacity, there is no detail with regard to the number of petitions filed on the same accident and if a number of petitions were to be filed, the Insurance Company ought to have requested the Court to club all the claim petitions and to proceed further.

18. In the above circumstances, we are of the considered opinion that in terms of **Yallavva's** case (supra), the insurer is liable to pay at the first instance and to recover the same from the first respondent-owner.



The Tribunal committed an error in assessing the income of the claimant/appellant at ₹.6,000/- per month. In terms of chart prepared by the Karnataka State Legal Services Authority for the accidents of the year 2014, the notional income would be ₹.7,500/-. Accordingly, the income of the claimant/appellant is reassessed at ₹.7,500/- per month. The multiplier of 15 adopted by the Tribunal is proper.

19. The claimant/appellant has lost his right hand above elbow. The Tribunal has not awarded any compensation on the head of the artificial limb. Taking note of the same, we deem it appropriate to award a sum of ₹.1,00,000/- towards artificial limb and future medical expenses.

20. Learned counsel for the claimant/appellant contended that in view of amputation of right hand above elbow, the claimant/appellant who was working as a goundi would not be in a position to carry out the same work of



goundi. Hence, he prayed for assessing the whole body and functional disability at 100%.

21. Learned counsel for the claimant/appellant has placed reliance on the decision of **Chandra Mogera** (supra) to contend that the claimant/appellant would be entitled for consideration of 100% disability. In **Chandra Mogera** case (supra), the claimant was a driver and he had suffered amputation below the knee and taking note of the technical qualification of driving, which the claimant had possessed and since driver cannot drive when he has suffered amputation of his leg, the Hon'ble Apex Court reassessed the whole body disability at 100%. Thus, the said decision would have no application to the facts of the present case.

22. On the other hand, learned counsel Sri Subhash J Baddi would submit that in terms of Part-II of Schedule-I of the Employee's Compensation Act, 1923 (for short, '1923 Act'), amputation above elbow and below shoulder would be 70% and he categorically contends that it would not be



100%. Moreover, he submits that the claimant/appellant is not immobilized or it is not the case of the claimant that he cannot carry out his day to day work.

23. Part-II of Schedule-I of 1923 Act prescribes 70% of disability for amputation above elbow and below shoulder. The claimant/appellant is not immobilized. He would be in a position to do any other work other than the goundi. The claimant/appellant could carry out his day to day work without the assistance of any other person. In the above circumstances, we deem it appropriate to reassess the whole body disability of the claimant/appellant at 70% as against 50% assessed by the Tribunal.

24. The claimant, who has suffered 70% of whole body disability would be entitled for future prospects at the rate of 40% of the assessed income in terms of the decision of the Hon'ble Apex Court in the case of ***National Insurance Company Limited vs. Pranay Sethi and Others*** reported in ***(2017) 16 SCC 680***. Thus, the



claimant is entitled for the following compensation under the head loss of future earning capacity:

$$₹.7,500/- + 40\% = ₹.10,500/-$$

$$₹.10,500/- \times 12 \times 15 \times 70\% = ₹.13,23,000/-$$

25. With the above, the claimant/appellant would be entitled for the following modified compensation:

Sl.No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Loss of future earnings	₹.5,40,000/-	₹.13,23,000/-
2.	Pain and suffering	₹.75,000/-	₹.75,000/-
3.	Food transport and attendant charges including loss of income during his stay in the hospital	₹.14,000/-	₹.14,000/-
4.	Loss of Amenities in life	₹.50,000/-	₹.50,000/-
5.	Medical expenses	₹.1,31,816/-	₹.1,31,816/-
6.	Future medical expenses	₹.10,000/-	-
7.	Artificial Limb and future medical expenses	-	₹.1,00,000/-
	Total	₹.8,20,816/-	₹.16,93,816/-

26. In view of the above, we pass the following:



ORDER

- a) The appeal filed under Section 173(1) of Motor Vehicles Act, 1988 is ***allowed in part***;
- b) The Judgment and Award dated 14.06.2018 in MVC No.2540/2015 on the file of IX Additional District and Sessions Judge and Additional MACT, Belagavi is modified;
- c) The claimant is entitled for total compensation at ₹.16,93,816/- as against ₹.8,20,816/- awarded by the Tribunal;
- d) The compensation shall carry interest at the rate of 6% p.a. from the date of petition till the date of its realization;
- e) The respondent-Insurer shall pay the entire compensation amount to the claimant at the first instance and recover the same from the 1st respondent-owner of the vehicle in question;
- f) The respondent-Insurer is directed to deposit the compensation amount along with interest within eight weeks from the date of receipt of certified copy of this judgment;



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- g) The deposit and disbursement shall be made as
per the award of the Tribunal;
- h) No order as to costs.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE

SH
Ct-cmu
LIST NO.: 1 SL NO.: 36