



NC: 2025:KHC-D:15446-DB
MFA No. 103553 of 2024
C/W MFA No. 102272 of 2024
MFA No. 102495 of 2024

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 11TH DAY OF NOVEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 103553 OF 2024 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 102272 OF 2024 (MV-I)

MISCELLANEOUS FIRST APPEAL NO. 102495 OF 2024 (MV-I)

IN MFA NO. 103553/2024

BETWEEN:

THE DIVISIONAL MANAGER
THE NEW INDIA ASSURANCE CO. LTD.,
CLUB ROAD, BELAGAVI 590001,
(INSURER OF TRAILERS BEARING NO KA-49/T-5902,
5903)

NOW REPRESENTED BY
ITS AUTHORISED SIGNATORY

...APPELLANT

(BY SRI. SUBHASH J. BADDI., ADVOCATE)

AND:

1. SHRI MALLIKARJUN SADASHIV MARADI
AGE: 38 YEARS, OCC: NOW NIL,
R/O: YALIMUNNOLI,
TALUK: HUKKERI, DIST: BELAGAVI-591309.
2. SHRI YAMANAPPA LAGAMAPPA DOOGANNAVAR
AGE: MAJOR, OCC: BUSINESS
R/O. WADERAHATTI
TAL: GOKAK, DIST: BELAGAVI-591307.



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3. THE DIVISIONAL MANAGER,
NATIONAL INSURANCE CO. LIMITED,
RAMDEV GALLI, BELAGAVI-590001.
4. SHRI LAXMAN SIDDLINGAPPA TOLAMARDI
AGE: MAJOR, OCC: BUSINESS,
R/O. WADERAHATTI,
TAL: GOKAK, DIST: BELAGAVI-591307.

...RESPONDENTS

(BY SMT. SUNANDA P. PATIL, ADVOCATE FOR R1;
SRI S.S. BADAWADAGI, ADVOCATE FOR R2 AND R4;
SRI S.K. KAYAKAMATH, ADVOCATE FOR R3)

THIS MFA FILED U/S.173(1) OF MOTOR VEHICLES ACT,
1988, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD
DATED 12.02.2024 PASSED IN MVC NO.2149/2012 ON THE
FILE OF THE SENIOR CIVIL JUDGE AND MOTOR ACCIDENT
CLAIMS TRIBUNAL, HUKKERI, WITH COST IN THE INTEREST
OF JUSTICE AND EQUITY.

IN MFA NO. 102272/2024
BETWEEN:

SHRI MALLIKARJUN S/O. SADASHIV MARADI
AGE. 40 YEARS, OCC. NOW NIL,
R/O. YALIMUNNOLI-591309,
TQ. HUKKERI, DIST. BELAGAVI.

...APPELLANT

(BY SMT SUNANDA P. PATIL, ADVOCATE)

AND:

1. SHRI YAMANAPPA
S/O. LAGAMAPPA DODGANNAVAR,
AGE. 40 YEARS, OCC. BUSINESS,
R/O. WADERAHATTI-591224,
TQ. GOKAK, DIST. BELAGAVI.
2. THE DIVISIONAL MANAGER,
NATIONAL INSURANCE COMPANY LIMITED,
RAMDEV GALLI, BELAGAVI-590001.



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3. SHRI. LAXMAN S/O. SIDDLINGAPPA TOLAMARDI,
AGE. 40 YEARS, OCC. BUSINESS,
R/O. WADERAHATTI-591224,
TQ. GOKAK, DIST. BELAGAVI.
4. THE DIVISIONAL MANAGER,
THE NEW INDIA ASSURANCE COMPANY LIMITED,
CLUB ROAD, BELAGAVI-590001.

...RESPONDENTS

(BY SRI S.S. SADAWADAGI, ADVOCATE FOR R1 AND R3;
SRI S.K. KAYAKAMATH, ADVOCATE FOR R2;
SRI SUBHASH J. BADDI, ADVOCATE FOR R4)

THIS MFA FILED UNDER SECTION 173 (1) OF MOTOR VEHICLES ACT, 1988, MODIFY THE JUDGMENT AND AWARD DATED 12.02.2024 PASSED IN MVC NO.2149/2012 ON THE FILE OF THE SENIOR CIVIL JUDGE AND THE MOTOR ACCIDENT CLAIMS TRIBUNAL, AT HUKKERI AND ENHANCE THE COMPENSATION FROM RS.37,80,000/- TO RS.60,00,000/- TO THE APPELLANT IN THE INTEREST OF JUSTICE AND EQUITY.

IN MFA NO. 102495/2024
BETWEEN:

THE DIVISIONAL MANAGER
NATIONAL INSURANCE COMPANY LIMITED
RAMDEV GALLI, HUKKERI
NOW R/BY ITS ADMINISTRATIVE OFFICER

...APPELLANT

(BY SRI S.K. KAYAKMATH, ADVOCATE)

AND:

1. SRI MALLIKARJUN SADASHIV MARADI
AGE. 38 YEARS, OCC. INDIAN ARMY (NOW NIL)
R/O.YALIMUNNOLI, TQ. HUKKERI,
DIST. BELGAVI-590-001.



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2. SRI YAMANAPPA LAGAMAPPA DOOGANNAVAR
AGE. MAJOR, OCC. BUSINESS,
R/O. WADERAHATTI, TQ. GOKAK,
DIST. BELAGAVI,
OWNER OF TRACTOR BEARING
REG.NO.KA-33/T-4163-590-001.
3. SRI LAXMAN S/O. SDDDALINGAPPA TOLAMARDI
AGE. MAJOR, OCC. BUSINESS
R/O. WADERAHATTI,
TQ. GOKAK, DIST. BELAGAVI-590-001,
OWNER OF TRAILERS BEARING
NO.KA 49/T 5902 AND KA 49/T-5903.
4. THE DIVISIONAL MANAGER,
NEW INDIA ASSURANCE CO. LTD., CLUB ROAD,
BELAGAVI-590-001.

...RESPONDENTS

(BY SRI S.S. BADAHADAGI, ADVOCATE FOR R2 AND R3;
SMT. SUNANDA P. PATIL, ADVOCATE FOR R1;
SRI SUBHASH J. BADDI, ADVOCATE FOR R4)

THIS MFA FILED UNDER SECTION 173(1) OF MOTOR VEHICLE ACT, 1988, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 12.02.2024 PASSED IN MVC NO.2149/2012 ON THE FILE OF THE SENIOR CIVIL JUDGE AND THE MOTOR ACCIDENT CLAIMS TRIBUNAL AT HUKKERI, WITH COST IN THE INTEREST OF JUSTICE AND EQUITY.

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

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



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ORAL JUDGMENT

(PER: HON'BLE MRS JUSTICE GEETHA K.B.)

MFA No.103553/2024 is filed by New India Assurance Co. Ltd.-respondent No.4; MFA No.102272/2024 is filed by the claimant and MFA No.102495/2024 is filed by the National Insurance Company Ltd.-respondent No.2; both insurance companies have filed the appeals challenging the quantum of compensation awarded by the Tribunal and unsatisfied with the compensation, the claimant has filed the appeal claiming enhancement of compensation awarded in judgment and award in MVC No.2149/2012 dated 12.02.2024 on the file of Senior Civil Judge and M.A.C.T., Hukkeri (for short, 'Tribunal').

2. The parties would be referred with their rankings as they were before the Tribunal for convenience and clarity.

3. Brief facts of the case are that, on 23.01.2012 at about 21.30 hours, when the claimant was proceeding from Gokak towards Hukkeri in motorcycle bearing



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registration No.KA-49/K-3778 near Ghataprabha-Hukkeri Road, near railway bridge, the tractor and trailer bearing registration No.KL-33/T-4163 and KA-49/T-5902/5903, respectively came in high speed and dashed against the motorcycle and thus, the accident occurred. Due to the impact of accident, the claimant has sustained multiple grievous injuries and he was shifted to J.G. Hospital, Ghataprabha, wherein he has taken treatment; on next day, he was shifted to Military Hospital, Belagavi; then shifted to KLE Hospital, Belagavi, wherein he was admitted as in-patient from 24.01.2012 to 09.02.2012 and due to the accident, there was surgery to his left leg on 25.01.2012 and his left leg was amputated up to mid thigh. Again he was admitted to Military Hospital, Pune and was taking treatment even at the time of filing the petition.

4. On receipt of notice, respondent Nos.1 & 3 , the owners of respective tractor and trailer appeared and filed their objection statements by denying the nature of



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accident, the age, income and occupation of the claimant and all the defenses available to the owners.

5. On receipt of notice, respondent No.2-insurer of tractor bearing Registration No.KA-33/T-4163 appeared through its counsel and filed objection statement denying all the averments in the petition. It further contended that the driver of tractor and trailer was not holding valid and effective driving licence as on the date of accident and hence, it is not liable to pay compensation. It denied the other averments made in the petition and contended that the accident happened due to rash and negligent driving of another tractor-trailer bearing registration No.KA-49/T-5902/5903. Hence, prayed for dismissal of the petition.

6. On receipt of notice, respondent No.4-insurer insurer of tractor bearing Registration No.KA-33/T-5902/5903 appeared through its counsel and filed its objection statement wherein it also denied all the averments made in the petition and contended that driver



of the tractor-trailer was not holding valid driving licence. It further contented that the accident happened due to rash and negligent driving of driver of tractor bearing number No.KA-33/T-4163 and hence, prayed for dismissal of the petition.

7. The claimant was examined as P.W.1, examined the doctor as P.W.2 apart from marking Exs.P.1 to P.73 and closed his side before the Tribunal. On behalf of respondents, no evidence was let in except marking insurance policy at Ex.R.1.

8. After recording evidence of both sides and hearing arguments of both sides, the Tribunal came to the conclusion that accident happened due to rash and negligent driving of drivers of both tractors-trailer and both vehicles were having valid and effective Insurance policy as on the date of accident and thus, saddled the liability of 50% each to both respondent Nos.2 & 4 and



granted the compensation at ₹.37,80,000/- under following different heads:-

1.	50% Future loss of income	Rs.34,29,000/-
2.	Pain and sufferings	Rs.1,00,000/-
3.	Medical Expenses	Rs.1,26,000/-
4.	Conveyance, Attendance and other expenses	Rs.50,000/-
5.	Loss of comforts and amenities	Rs.25,000/-
6.	Future medical expenses	Rs.50,000/-
	Total	Rs.37,80,000/-

9. Aggrieved by the said judgment and award, both insurance companies have filed the appeals claiming that the compensation awarded by the Tribunal was at higher side; whereas the claimant filed the appeal contending that the compensation awarded by the Tribunal was on lower side and prayed for enhancement of the compensation.

10. The learned counsel for appellant/respondent No.2 Sri S.K.Kayakmath would submit that the Tribunal has not appreciated the oral and documentary evidence placed before it properly and its finding is contrary to the



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facts of the case and well established principles of law. The Tribunal has not considered the fact that the claimant continued his job till his retirement in November-2020 in the Army; only after completing his 20 years service, he retired from service and hence, there was no functional disability and the Tribunal ought not to have awarded compensation under the head loss of future earning capacity. Furthermore, the claimant is also getting pension. Further, Tribunal has not considered the fact that the rider of motorcycle rode in a rash and negligent manner and dashed to the trailer which resulted in grievous injuries. Hence, prays for allowing the appeal.

11. Learned counsel for respondent No.2 Sri S.K. Kayakmath would further submit that the Tribunal ought to have considered the net salary of claimant as ₹.18,083/-. But it has grossly erred in considering it as ₹.38,100/-. Even though medical expenses were reimbursed to the claimant by the Ministry of Defence, the Tribunal awarded a sum of ₹.1,26,000/- towards medical



expenses, which is not proper. The claimant was talking on his mobile at the time of accident. Hence, there is negligence on his part and thus, saddling liability upon respondents is improper. Hence, prayed for allowing the appeal.

12. Learned counsel for respondent No.4 Sri Subhash J. Baddi would submit that the Tribunal erred in taking the income of claimant at ₹38,100/- per month of November-2020 for the purpose of awarding compensation under the head loss of future income. But, it has not considered the income of the claimant at the time of accident and further not considered the actual earnings of the claimant.

13. The learned counsel for appellant would submit that the tribunal has not considered that the appellant has taken treatment as in-patient for 19 days and not considered the functional disability at 100% as he was working as ACP-9 in the Army and then, only lighter work



was given to him; after his retirement from the Army, he is not having prospect of getting job. The Tribunal has not considered the guidelines given in the case of ***National Insurance Company Limited vs. Pranay Sethi and Others*** reported in ***(2017) 16 SCC 680***, and not included 50% of future prospects at the time of awarding compensation under the head-loss of future income. The compensation awarded under different heads is on the lower side. Hence, prays for enhancement of compensation.

14. Having heard the learned counsels for parties and on perusal of the appeal papers including the original records, the following points would fall for consideration in these appeals:

- i) Whether respondent Nos.2 & 4 prove that there is contributory negligence on the part of the claimant for causing the accident?



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- ii) Whether the claimant is entitled for enhanced compensation?
- iii) Whether respondent Nos.2 & 4 establish that the compensation awarded by the Tribunal is on higher side?

15. Our finding on the above point No.1 & 3 in 'Negative' and Point No.2 in 'affirmative' for the following reasons:

16. The insurers have taken contention that the accident happened because of rash and negligent riding of the claimant of motorcycle and hence there is contributory negligence on his part also. In this regard, on careful perusal of the oral evidence of claimant along with the documents, they established that the IMV Inspector has examined both tractors & trailer and Motorcycle and gave his report as per Exs.P.6 & P.7. He has found rear tail lamp, rear body, handle and headlight dome of the motorcycle were damaged. No fresh damages on the



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Tractor-trailer bearing registration No.KL-33/T-4163 and only a rear right side portion of the trailer of KA-49/T-5902/5903 was scratched.

17. It is to be noted here that the accident took place in the midst of a two-wheeler and two tractor-trailer. Hence, it is quiet natural that tractors-trailer would not have been damaged in the incident. The accident happened on the southern edge of the road and the claimant has deposed that he had seen one tractor trailer from 15 to 20 meters away from the spot, within a fraction of 5 seconds, the trailer attached to the offending tractor came back to reverse direction and dashed against him and thereby the accident happened.

18. On perusal of all these materials, it indicates that charge sheet is already filed against drivers of both offending tractors; trailer hence, it is held that the insurers of both vehicles failed to establish the contributory negligence on the part of claimant. They have stated that



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claimant was talking in his mobile phone and riding the motorcycle and thus the accident occurred. However, to substantiate it, no material is produced. Hence, we are of the considered opinion that both insurers have failed to prove the contributory negligence on the part of claimant in causing accident.

19. At the time of accident, the claimant was working as ACP at the Army Office and he came to his native place for vacation and at that time, he sustained the accident. After the accident, the claimant has continued his job and completed his service in Army and retired from service during November-2020.

20. Learned counsels for insurers vehemently would submit that thus, there is no functional loss to the claimant and not entitled for compensation under the head-loss of earning capacity.

21. Learned counsel for claimant would submit that the claimant could have continued his job for 15 more



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years; but because of accident, he retired from service immediately after completion of 20 years, as he could get pension and after his retirement also he cannot get any job. Hence, awarding compensation under the head-loss of earning capacity by the Tribunal is proper.

22. On perusal of the submission of both sides and examining the records, we noticed that the claimant retired from service after completing his half way service and he had 15 more years of service, which he could not complete because of amputation of his leg. Considering these facts, rightly, the Tribunal concluded that there is loss of earnings to the claimant.

23. His gross salary as per Ex.P.18 for October-2011 was ₹.27,498/- and there were deductions and net salary was ₹.18,083/-. The deductions are towards AFPP fund subscription, AFPP fund refund, EGIF, which are for his benefit only and they would accrue to his income. Hence, they cannot be deducted from his salary. In the



total salary, there was recurring allowance of ₹.2,000/- and arrears of paid allowances was ₹.2,800/-. This amount is to be deducted from his total salary because they are not being paid every month. Thus, by deducting this amount, the total salary of the claimant at the time of accident was ₹.27,498/- - ₹.4,800/- = ₹.22,698/-.

24. In the accident, the claimant has sustained following injuries:

- 1) contused lacerated wound on left knee;
- 2) contused lacerated wound on left thigh;
- 3) crushed injuries on right foot.

25. The Tribunal has taken the salary of November-2020 of the claimant, i.e., at the time of his retirement is ₹.38,100/- which is not proper because the salary of claimant as on the date of accident is to be taken and not as on the date of his retirement. The claimant was aged about 37 years as on the date of accident. Hence, by



relying upon the dictum of Hon'ble Apex Court in the case of ***Sarla Verma & Others Vs. Delhi Transport Corporation & Another***¹ case, the relevant multiplier applicable to the case is '15'. Thus, ₹.22,698 X 12 X 15 = ₹.40,85,640/- is awarded towards loss of future earnings instead of ₹.34,29,000/- awarded by the Tribunal. The Tribunal has awarded ₹.1,00,000/- towards pain and suffering which we do not interfere as it is just compensation. As far as medical expenses is concerned, claimant has produced medical bills amounting to ₹.1,26,000/- which is awarded by the Tribunal.

26. Learned counsels for both insurance Companies have vehemently would submit their arguments that the claimant is from Army personnel and hence, he would get reimbursement of medical expenses from the Army. Hence, the medical expenses cannot be awarded to the claimant.

¹ 2009 ACJ 1298



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27. In this regard, the cross-examination of claimant is to be looked into. In that cross-examination at one stretch, the claimant has admitted that even now his medical expenses are being borne out by the government. He further admitted that he gets free treatment at Military Hospital. However, in the further cross-examination, this P.W.1 has specifically deposed that his higher officer i.e., Coloneal has issued letter as per Ex.P.25 that he has not received any amount from his government office regarding this accident. He also received the letter as per Ex.P.26 that the Military Hospital was not having facilities and hence, he has taken treatment at KIMS.

28. On perusal of Ex.P.25 and P.26, we are of the opinion that claimant is entitled for the amount he spent towards medical expenses, because he has not received reimbursement from his employer for it. Hence, grant of compensation under the head-medical expenses needs no interference.



29. The Tribunal has awarded ₹.50,000/- towards conveyance, attendant charges and other expenses which is just and fair compensation and thus, needs no interference. As far as loss of comforts and amenities is concerned, the Tribunal has awarded only ₹.25,000/-. But, as discussed above, the claimant has lost one of his legs up to the thigh and thus, he lost his future comforts and amenities in the life. Hence, ₹.25,000/- more is to be awarded under said head. As far as future medical expenses is concerned, the claimant has to get artificial limb for which only ₹.50,000/- was awarded by the Tribunal which is insufficient and thus, we are of the opinion that at least ₹.1,00,000/- is to be awarded under this head.

30. Thus, the total compensation awarded by the Tribunal is to be modified as under:

1.	Future loss of income	₹.40,85,640/-
2.	Pain and sufferings	₹.1,00,000/-
3.	Medical Expenses	₹.1,26,000/-



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4.	Conveyance, Attendance and other expenses	₹.50,000/-
5.	Loss of comforts and amenities	₹.50,000/-
6.	Future medical expenses	₹.1,00,000/-
	Total	₹45,11,640/-

31. Accordingly, points No.1 and 3 raised for consideration are answered in the negative and point No.2 in the affirmative. In the result, we proceed to pass the following:

ORDER

i) MFA No.103553/2024 and MFA No.102495/2024 filed by the Insurance Companies are ***dismissed***.

ii) MFA No.102272/2024 filed by the claimant is ***allowed in part***.

iii) The judgment and award dated 12.02.2024, passed in MVC No.2149/2012, on the file of Senior Civil Judge and MACT, Hukkeri, is modified to the extent that the claimant would be entitled to total compensation of ₹45,11,640/- as against Rs. ₹37,80,000/- awarded by the tribunal.



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iv) The enhanced compensation amount shall carry interest at the rate of 6% p.a. from the date of petition till the date of payment.

v) The respondents No.2 and 4 insurance companies shall deposit the enhanced compensation amount along with accrued interest, in equal proportion, before the Tribunal, within a period of eight weeks from the date of receipt of a certified copy of this judgment.

vi) Registry to transmit the records to the Tribunal forthwith.

vii) Draw modified award accordingly.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE