



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 11TH 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. 104371 OF 2023 (MV-I)

BETWEEN:

SIDDAPPA NINGAPPA POLICEGOL
AGE. 29 YEARS, OCC. MASON (NOW NIL),
R/O. LOLSUR, TAL. GOKAK,
DIST. BELAGAVI 591218.

...APPELLANT

(BY SRI YASH R. NADKARNI, ADVOCATE FOR
SRI VITTHAL S. TELI, ADVOCATE)

AND:

NWKSRTC,
REPRESENTED BY ITS DIVISIONAL CONTROLLER,
NWKSRTC, CHIKKODI DIVISION,
BELAGAVI 590005.

...RESPONDENT

(BY SRI S.C. BHUTI, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 173 (1) OF MOTOR VEHICLES ACT 1988, PRAYING THAT, THE JUDGMENT AND AWARD DATED 27.01.2022 PASSED IN MVC NO.1492/2020 ON THE FILE OF THE XII ADDITIONAL DISTRICT AND SESSIONS JUDGE, BELAGAVI SITTING AT GOKAK, IN AWARDDING THE COMPENSATION OF RS.2,08,500/- AND INTEREST AT RATE OF 7.5% FROM THE DATE OF PETITION AND MAY BE MODIFIED BY ENHANCING TO RS.47,91,500/-WITH 18% INTEREST 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 MRS JUSTICE GEETHA K.B.)

This is an appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 by the unsatisfied claimant in respect of compensation awarded under judgment and award dated 27.01.2022 in MVC No.1492/2020 on the file of XII Additional District and Sessions Judge, MACT Belagavi, Sitting at Gokak (in short, 'the Tribunal') praying for enhancement of compensation and questioning the contributory negligence saddled against him by the Tribunal.

2. Parties would be referred to with their ranks as they were before the Tribunal for the sake of convenience and clarity.



3. Claimant has filed the claim petition under Section 166 of Motor Vehicles Act claiming compensation in respect of the injuries suffered by him in the accident that had taken place on 25.07.2014 at 08.30 p.m. on Gokak-Ghataprabha road involving motor cycle bearing Reg.No.KA-17/U-7204 and the NWKRTC bus bearing Reg.No.KA-42/F-515.

4. It is the case of claimant that on 25.07.2014, when he being the rider and one Nagappa as pillion rider of the motor cycle bearing Reg.No.KA-17/U-7204, was proceeding from Arabhavi Math towards Ghataprabha, the bus bearing Reg.No.KA-42/F-515 came from opposite side with rash and negligence, on the wrong side, and dashed against the motor cycle, which resulted in the fall of claimant, pillion rider and motor cycle; due to which, he sustained comminuted fracture of middle 1/3rd of tibia, fracture of right fibula, loss of knee joint cartilage at right knee and other injuries.



5. It is further contended that at the time of accident, the claimant was aged about 26 years and was doing goundy work (mason) and he spent ₹.1,20,000/- towards treatment and required a further sum of ₹.1,00,000/- for removal of implants. It is stated that he was earning ₹.20,000/- per month. Because of the accident, he could not work at all and there is shortening of his limb and he is permanently disabled. Two attendants attended him in the hospital and also during follow-up treatment, he spent ₹.800/- per day for them. He spent ₹.2,000/- towards each follow-up treatment towards conveyance. Hence, claimed compensation under different heads.

6. On receipt of notice, respondent filed its objection statement denying the contention of petitioner in toto and further contended that only due to rash and negligent driving of the rider of motor cycle, who lost control over the motor cycle and dashed against the bus, thereby causing the accident. The driver was driving the bus in moderate speed. There is 6 years' delay in filing the claim



petition and thus it is time barred. Hence, prayed for dismissal of the petition.

7. On behalf of claimant, claimant was examined as P.W.1 apart from examining a doctor as P.W.2 and marking Exs.P.1 to P.39 on behalf of claimant before the Tribunal. On behalf of respondent, the conductor of the bus was examined as R.W.1 apart from marking Exs.R.1 and R.2 and closed its side before the Tribunal.

8. After recording evidence of both sides and hearing arguments of both sides, the Tribunal came to the conclusion that there is equal contributory negligence on the part of rider of the motor cycle and bus driver and thus saddled liability of only 50% on the respondent and awarded total compensation of ₹.2,08,500/- with interest at 7.5% per annum from the date of petition till its realization.

9. Aggrieved by the same, the claimant/appellant has preferred the present appeal.



10. Learned counsel for appellant, Sri Vitthal S Teli would submit that only because the claimant was not having driving licence, the Tribunal has come to the conclusion that there is 50% contributory negligence on the part of claimant, which is not proper. He would further contend that even the compensation awarded by the Tribunal on all heads is on lower side. Hence, prayed for allowing the appeal.

11. Learned counsel for respondent, Sri S.C.Bhuti would submit that the oral evidence of claimant and the conductor of bus categorically establishes the contributory negligence on the part of claimant, which is properly explained by the Tribunal in its judgment. Furthermore, the rate of interest awarded by the Tribunal is on higher side.

12. He would further submit that there is no need to interfere with the aforesaid judgment because the claimant was not having a driving licence. Claimant along with two others, i.e., totally three persons, was going on the



motorcycle and only because of imbalance of the claimant, he dashed against the bus and caused the accident and there was no negligence on the part of driver of the bus in causing the accident. Hence, prayed for dismissal of the appeal.

13. Having heard arguments of both sides and upon verifying the appeal papers and the tribunal records, the points that would arise for consideration are:

1. Whether the contributory negligence of 50% saddled on the claimant by the Tribunal is justifiable?
2. Whether the claimant is entitled for enhanced compensation?

14. Our finding on point No.1 is in the **negative** and point No.2 is in the **affirmative** for the following reasons:

15. The date, time and place of accident is not in dispute.



16. According to the claimant, he was going on left side of the road and the bus came on the wrong side and dashed against him. The spot sketch is not produced, but only the panchanama is produced, which reveals that on southern side of the road, at 4 feet there was dried blood and the Hero Honda Splendor had fallen and it was damaged. In the cross examination, P.W.1 admitted that there is a petrol bunk near the spot of incident and speed breakers were there on the road. That means, the bus, which was coming from petrol bunk's side, could not have come with great speed because immediately after the speed breakers the accident had taken place.

17. The claimant stated that he was having driving licence but he misplaced it, but he has not given any complaint for misplacement of the driving licence and not made any efforts to obtain its duplicate copy. Thus, the claimant was not having the driving licence. The manner in which the accident that had taken place clearly and categorically establishes that there is contributory



negligence on the side of claimant also in causing the accident. It is an admitted fact that the road was sufficiently wide. Merely because the bus is a heavy vehicle, it cannot be said that the entire negligence is on the part of driver of the bus in causing the accident. The place where the accident had taken place and the manner in which it has taken place clearly and categorically establish that there is some contributory negligence even on the part of rider of the motorcycle i.e., the claimant. However, the Tribunal considered it as 50%, which is exorbitant. Hence, we are of the opinion that there is contributory negligence of 25% on the part of claimant in causing the accident and not 50%.

18. Merely not holding a driving licence itself cannot be a ground to say that there is contributory negligence on the part of claimant in causing the accident. In this regard, learned counsel for appellant/claimant would place reliance on the judgment of Hon'ble Apex Court in the case of ***Dinesh Kumar J. Alias Dinesh J. vs. National Insurance Company Limited and Others*** reported in



(2018) 1 SCC 750, wherein their Lordships placed reliance on the judgment in the case of **Sudhir Kumar Rana vs. Surinder Singh** reported in **(2008) 12 SCC 436**, wherein it held as follows:

"9. If a person drives a vehicle without a licence, he commits an offence. The same, by itself, in our opinion, may not lead to a finding of negligence as regards the accident. It has been held by the courts below that it was the driver of the mini truck who was driving rashly and negligently. It is one thing to say that the appellant was not possessing any licence but no finding of fact has been arrived at that he was driving the two-wheeler rashly and negligently. If he was not driving rashly and negligently which contributed to the accident, we fail to see as to how, only because he was not having a licence, he would be held to be guilty of contributory negligence.

10. The matter might have been different if by reason of his rash and negligent driving, the accident had taken place."

19. Placing reliance on this judgment, we are of the considered opinion that while there is some contributory negligence on the part of appellant/claimant; the bus being heavy vehicle, its driver ought to be more cautious in driving the same. Hence, saddling contributory negligence



of 25% to the claimant is proper. Accordingly, point No.1 is answered.

20. The claimant has suffered three fractures i.e., comminuted fracture of tibia, fracture of fibula and loss of right knee joint cartilage. Thus, the compensation awarded by the Tribunal under the head pain and suffering at ₹.20,000/- is too less and it should be enhanced to **₹.60,000/-**. Towards loss of amenities, it should be enhanced to **₹.50,000/-**. Towards conveyance and other charges, it should be enhanced to **₹.10,000/-** from ₹.1,000/-.

21. As far as awarding compensation under other heads is unaltered. Thus, the claimant is entitled for the following compensation:

Sl. No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Loss of future income	₹.2,02,500/-	₹.2,02,500/-
2	Medical bills	₹.98,414/-	₹.98,414/-
3	Pain and suffering	₹.20,000/-	₹.60,000/-
4	Loss of amenities	₹.40,000/-	₹.50,000/-
5	Loss of income during	₹.30,000/-	₹.30,000/-



	laid up period		
6	Attendants charges and food and nourishment	₹.25,000/-	₹.25,000/-
7	Conveyance charges	₹.1,000/-	₹.10,000/-
	Total	₹.4,16,914/- (rounded off to ₹.4,17,000/-)	₹.4,75,914/- (rounded off to ₹.4,76,000/-)

22. As this Court has saddled 25% of contributory negligence on the claimant, he is entitled for compensation of ₹.3,57,000/-.

23. There is a delay in filing this appeal. Hence, the appellant is not entitled for the interest on enhanced amount for this delayed period. Accordingly, point No.2 is answered. As far as awarding interest at 7.5% p.a., by the Tribunal is concerned, it is on higher side. Hence, claimant is entitled for interest at 6% p.a.

24. In view of the above discussion, 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 27.01.2022 in MVC No.1492/2020 on the file of XII Additional District and Sessions Judge, MACT Belagavi, Sitting at Gokak is modified;
- c) The claimant is entitled for total compensation of ₹.3,57,000/- as against ₹.2,08,500/- awarded by the Tribunal;
- d) The enhanced compensation shall carry interest at the rate of 6% p.a. from the date of filing the appeal till the date of its realization;
- e) The appellant/claimant is not entitled for the interest on enhanced amount for the delayed period in filing the above appeal;



- 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;
- 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.: 38