

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 14TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO.103606 OF 2019

BETWEEN

SHRI SATISH PUNDALIC POTE
AGE : 33 YEARS,
OCC : SERVICE (NOW NIL),
R/O. HOUSE NO.819, SHIVAJI
NAGAR
KHANAPUR, DIST: BELAGAVI-
591302.

...APPELLANT

(BY SMT. GEETHA K.M. ADVOCATE-THROUGH VC)

AND

1 . SRI JOTIBA,
S/O. RAGUNATH KALASEKAR
AGE : MAJOR, OCC : BUSINESS,
A/P: DESUR,
TQ. AND DIST. BELAGAVI-590014
(OWNER OF THE TRUCK KA-22/A 7759)

2 . UNITED INDIA INSURANCE CO. LTD.
R/BY IT'S DIVISIONAL MANAGER,
MARUTI GALLI,
BELAGAVI-590001.
(INSURER OF THE TRUCK KA-22/A-7759)

...RESPONDENTS

(BY SMT. PREETI SHASHANK, ADVOCATE FOR R2)
(R1-NOTICE SERVED AND UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT 1988 PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 27.04.2019 PASSED BY IN THE COURT OF IV ADDITIONAL DISTRICT JUDGE AND MACT V BELAGAVI, IN MVC NO.858/2018 AND ENHANCE THE COMPENSATION AS CLAIMED BY THE APPELLANT BY HOLDING THAT THE INSURANCE COMPANY IS LIABLE TO PAY THE SAME IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED ON 07.11.2025 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, DELIVERED THE FOLLOWING:

CAV JUDGMENT

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

This appeal by the claimant under Section 173(1) of Motor Vehicles Act, 1988 is directed against the judgment and award dated 27.04.2019 passed in M.V.C. No.858/2018 passed by the IV Additional District Judge and Motor Accident Claims Tribunal, Belagavi (for short, 'the Tribunal'), not being satisfied with the quantum of compensation and praying for enhanced compensation.

2. Parties are referred with their ranks, as they were before Tribunal for sake of convenience and clarity.

3. Claimants have filed the petition U/S.163-A of MV Act praying for compensation for the road traffic accident occurred on 22.01.2017.

4. Brief facts of the case are that claimant is the injured person who sustained injuries in a road traffic accident that occurred on 22.01.2017 involving car bearing number MH-10/E-9518 and truck bearing KA-22/A-7759 on Khanapur-Belagavi Road. It is stated that the truck came and hit the car and the claimant, being an inmate of the car, sustained grievous injuries. He further stated that he was aged about 31 years as on the date of accident and was earning ₹3,300/- per month.

5. Respondent No.1 appeared through his counsel but did not file objection statement. Respondent No.2-insurer filed its objection statement denying the liability, the cause of accident, nature of injuries, treatment taken by the claimant, medical expenses, age, income and occupation of the claimant. It further contented that owner and insurer of the car bearing registration number MH-10/E-9518 are proper and necessary parties and the petition was bad for non-joiner of necessary parties and also contended that driver of the truck was not having a valid driving licence. With these objections it prayed for dismissal of the petition.

6. The claimant examined himself as P.W.1, doctor as P.W.2, got marked Ex.P.1 to P.16 and closed his side. On behalf of respondents, the Officer of respondent No.2-insurer was examined as R.W.1 apart from marking Ex.R.1 and R.2 and closed its side.

7. After recording evidence of both sides and hearing arguments of both sides, the Tribunal considering the monthly income of Rs.3,300/- per month, as claimed by the claimant, assessed the annual income at ₹39,600/-, considering the age of injured as 31 years adopted multiplier 16, and further considering the disability as deposed by doctor at 50% to the particular limb, assessed the disability as 15% to the whole body and granted total compensation of ₹1,15,040/-.

8. Aggrieved by the same, claimant/appellant has preferred the present appeal praying for enhancement of the compensation.

9. Learned counsel for appellant Smt. Geeta K.M., appeared through Video Conference would submit that the total compensation ought to have been awarded by the Tribunal by taking into consideration the income of the injured at ₹40,000/-

per month and the interest on the compensation ought to have been awarded at 9% per annum. She would further submit that as the age of the claimant was 31 years as on the date of the accident, the relevant multiplier is 17, but the Tribunal has taken it wrongly as 16. Learned counsel would further submit that the Tribunal ought to have awarded the actual medical expenses of ₹2,00,000/- and ₹1,00,000/- towards future medical expenses. There was 100% disability in respect of capacity of the claimant in doing his skilled job. According to doctor, there is 90% disability to both bones, ₹10,000/- ought to have been awarded towards loss of amenities. The Tribunal has not awarded compensation towards nutrition and attendant charges, loss of income during laid up period, and towards conveyance of the appellant. Hence, she prayed for allowing the appeal.

10. Learned counsel for respondent No.2 Smt. Preethi Sashank would submit that claimant is entitled to interest only at 6% per annum and not 9% as claimed by him. She would submit that 15% disability taken by the Tribunal to the whole body is correct and even if the amount of ₹40,000/- was taken as the income of injured, there will not be much difference in the compensation. Hence prayed for dismissal of the petition.

11. Having heard the arguments of both sides and on perusal of the appeal papers, the only point that arises for consideration in this appeal is:

Whether the impugned judgment and award of the Tribunal needs interference?

12. My answer to the above point would be partly in "affirmative" for the following reasons:

- (a) There is no serious dispute about the occurrence of accident, place of accident, date, time of the accident on 22.01.2017 between two vehicles i.e. Car bearing registration number MH-10/E-9518 and Truck bearing registration number KA-22/A-759; age of the claimant and the injuries sustained by him in the accident are also not in dispute.
- (b) The claim petition was filed under Section 163-A of the MV Act, and the said provision provides for awarding compensation based on a structured formula as per the Second Schedule of the MV Act for the injuries suffered, or the death in an accident.

- (c) Admittedly in the present case, the appellant/claimant has sustained grievous injuries i.e. he has sustained fractures. P.W.2-doctor has stated the nature of injuries sustained by the claimant. Thus doctor opined that there is 40% disability to the whole body as per WHO, ALIMCOI and Government notification. Thus the Tribunal has taken the disability at 15% to the whole body and calculated the income, calculated the compensation. Taking of 15% and age of injured as 31 years by the Tribunal is correct. However the multiplier considered by Tribunal at 16 is wrong. It ought to have been at 17 as per the second schedule. The income of the injured is to be taken at ₹40,000/- and not at ₹39,600/-. Considering the above, the claimant/appellant would be entitled to compensation of Rs.1,02,000/- shall be $(Rs.40,000/- \times 15\% \times 17)$ under the head 'loss of future earnings' instead of ₹95,040/- as awarded by the Tribunal. The Tribunal has not awarded compensation in respect of grievous injuries at ₹1,000/- which the claimant is entitled to. Insofar as compensation towards 'pain and suffering' and 'medical expenses' is concerned, the Tribunal has correctly awarded the

compensations at ₹5,000/- and ₹15,000/- respectively.

Hence it needs no interference.

- (d) Thus, the total compensation that is required to be awarded in favour of the claimant is as under:

1.	Loss of future earnings	Rs.	1,02,000/-
2.	Pain and suffering	Rs.	5,000/-
3.	Medical expenses	Rs.	15,000/-
4.	Grievous injury	Rs.	1,000/-
Total		Rs.	1,23,000/-

Thus, the claimant would be entitled to a total compensation of Rs.1,23,000/- as against Rs.1,15,040/- awarded by the Tribunal. As the claim petition is one under Section 163-A of the MV Act, the rashness and negligence on the part of driver need not be looked into, and the liability of respondent No.2-insurer is covered. Considering these factors, the impugned judgment and award of the Tribunal requires modification to the above extent of enhancement of compensation, and the other part of the judgment of Tribunal would remain intact.

13. In the result, I proceed to pass the following order.

ORDER

- (i) The above appeal is allowed in part.

- (ii) The impugned judgment and award of the Tribunal is modified to an extent that the claimant is entitled to a total compensation of Rs.1,23,000/- as against Rs.1,15,040/- awarded by the Tribunal.
- (iii) The enhanced compensation amount will bear interest at the rate of 6% per annum from the date of claim petition till the date of realization.
- (iv) Respondent No.2-insurance company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within four weeks from the date of receipt of certified copy of this judgment.
- (v) The disbursement and deposit of the enhanced compensation shall be as per the award of the Tribunal.
- (vi) No order as to costs.
- (vii) Draw modified award accordingly.

**Sd/-
(GEETHA K.B.)
JUDGE**

KMS
CT-CMU, LIST NO.: