



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 20TH 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. 104959 OF 2023 (MV-I)

BETWEEN:

SRI BHIMARAI BHARAMA NAIK
AGE ABOUT 68 YEARS,
OCC. BUSINESS AND AGRICULTURE,
R/O. YAMKANAMARADI, TQ. HUKKERI,
DIST.BELAGAVI-591309.

...APPELLANT

(BY SRI. SUNIL KHOT, ADVOCATE)

AND:

1. SRI ABHISHEK ASHOK BADAkar
AGE 20 YEARS, OCC. STUDENT
R/O. YAMKANAMARADI,
TQ. HUKKERI, DIST. BELAGAVI 591309.
2. THE IFFCO-TOKO GENERAL INSURANCE COMPANY
LTD.,
SHIKSHAN BHAVAN, COLLEGE ROAD,
BELAGAVI 01.

...RESPONDENTS

(BY SRI M.K. SOUDAGAR, ADVOCATE FOR 12;
NOTICE TO R1 DISPENSED WITH)



THIS MFA IS FILED U/S.173(1) OF MV ACT, 1988, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 05.09.2022 PASSED IN MVC NO.1645/2019 ON THE FILE OF THE X ADDITIONAL DISTRICT JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BELAGAVI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR FINAL HEARING, 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.)

The claimant being unsatisfied with the quantum of compensation awarded in MVC No.1645/2019 dated 05.09.2022 on the file of X Additional District Judge and Additional M.A.C.T., Belagavi (for short, 'Tribunal') is before this Court in this appeal under S.173(1) of the Motor Vehicles Act, 1988 praying for enhancement of compensation.

2. The parties would be referred to as they stood before the Tribunal.



3. The claimant is claiming the compensation in respect of road traffic accident that had taken place on 11.06.2019 at 10.30 a.m. near old Gudagunti Road due to rash and negligent riding of the rider of the motor cycle bearing temporary Reg.No.MD-2A11CY3KCK33164. It is contended in the claim petition that the claimant has sustained injury to his right leg and took treatment as inpatient in Vijaya Ortho and Trauma Center, Belagavi from 11.06.2019 to 15.06.2019 and also suffered chest pain and took treatment as inpatient at Lakeview Hospital for 2 days. The claimant was 67 years old at the time of accident and earning ₹.20,000/- per month from cloth shop business and agricultural work. Due to the injuries suffered in the accident, he has become permanently disabled and lost his earning capacity. The accident was solely due to the rash and negligent riding of the rider of motor cycle belonging to respondent No.1. Hence, claimed compensation under different heads.



4. On receipt of notice, respondent No.1 did not appear and did not contest the petition and thus placed ex-parte before the Tribunal.

5. The second respondent appeared through its counsel and filed objection statement, wherein it denied the date, time, and manner of accident, the age, occupation, and income of the claimant and all the averments made in the claim petition. He further contended that he will take all necessary defence, which is available to the insurer. Hence, prayed for dismissal of petition.

6. On behalf of claimant, claimant was examined as P.W.1 apart from examining doctor as P.W.2 and marking Exs.P.1 to P.13 before the Tribunal. On behalf of respondents, no evidence is let in except marking the copy of insurance policy at Ex.R.1.

7. After recording evidence of both sides, hearing arguments of both sides, the Tribunal came to the conclusion that the claimant has established that due to



rash and negligent riding of the rider of motor cycle belonging to respondent No.1 the accident occurred and the claimant sustained injuries in the accident i.e., fracture of proximal 1/3rd of fibula and fracture of distal 1/3rd of tibia and thereby granted compensation of ₹.2,59,757/- under the following different heads:

Pain and Suffering	₹.10,000/-
Loss of earning capacity	₹.79,506/-
Loss of amenities in life	₹.30,000/-
Loss of income during laid up period	₹.26,500/-
Attendant charges, food and nourishment, conveyance etc.	₹.15,000/-
Medical expenses	₹.98,751/-
Total	₹.2,59,757/-

8. Not satisfied with the aforesaid compensation, the claimant/appellant is before this Court.

9. Learned counsel for appellant, Sri Sunil Khot would submit that the compensation awarded by the Tribunal under the heads-pain and suffering, loss of earning



capacity, loss of amenities in life are on lower side and hence, prayed for enhancement of compensation.

10. Learned counsel for respondent No.2-insurer, Sri M.K.Soudagar would submit that the compensation awarded by the Tribunal is just and fair and it requires no interference. Hence, prayed for dismissal of the appeal.

11. Having heard the arguments of both sides and verifying the appeal papers, the only point that would arise for our consideration is:

"Whether the claimant is entitled for enhanced compensation?"

12. Our finding on the above point is in '**affirmative**' for the following reasons:

13. The date, place and time of accident and the manner in which the accident had taken place is admitted by both sides. The age of claimant is 67 years, which is also not in dispute. The injuries sustained by the claimant in the



accident i.e., fracture of proximal 1/3rd of fibula and fracture of distal 1/3rd of tibia is also not in dispute.

14. Learned counsel for the appellant/claimant would rely on the judgment of Hon'ble Apex Court in the case of ***Sarnam Singh vs. Shriram General Insurance Company Limited and Others*** reported in ***2023 Live Law (SC) 498*** and would submit that if there is functional disability to the claimant, then claimant is entitled for compensation for such functional disability. He would further submit that in the instant case, because of accident the claimant is not in a position to earn anything and before the accident he was getting income of ₹.20,000/- per month from agriculture and also from cloth business. However, to substantiate that the claimant is having disability, the doctor is not examined and disability certificate is not produced.

15. Further, to substantiate the income of claimant, no document is produced. Hence, relying upon the chart



prepared by Karnataka State Legal Services Authority for Lok-Adalat, the notional income of claimant is to be taken at ₹.13,250/- as the accident occurred in the year 2019.

16. The claimant has suffered two fractures as stated above and hence, the compensation awarded under the head-pain and suffering by the Tribunal at ₹.10,000/- is very less and towards loss of amenities in life at ₹30,000/- is also on lower side. Hence, we are of the considered opinion that claimant is entitled for additional compensation of ₹.40,000/- and ₹.20,000/- under these heads respectively i.e., totally ₹.50,000/- under the head-pain and suffering and ₹.50,000/- under the head loss of amenities in life, which would be just and fair compensation to the claimant.

17. Hence, we hold that claimant is entitled for additional compensation of ₹.60,000/- apart from the compensation already granted by the Tribunal.

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



ORDER

- a) Appeal is ***allowed in part.***
- b) The judgment and award dated 05.09.2022 passed in MVC No.1645/2019 on the file of X Additional District Judge and Additional M.A.C.T., Belagavi is modified holding that the claimant is entitled to additional enhanced compensation of **₹.60,000/-** in addition to what has been awarded by the Tribunal.
- c) 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.
- d) The respondent No.2-Insurer shall deposit the enhanced compensation amount with accrued interest before the Tribunal within eight weeks from the date of receipt of certified copy of this judgment.



- e) Disbursement of the enhanced compensation shall be made as per the award of the Tribunal.
- f) Amount in deposit, if any, is ordered to be transmitted to the Tribunal forthwith.
- g) Draw modified award accordingly.
- h) No order as to costs.

**Sd/-
(S G PANDIT)
JUDGE**

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

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