



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE RAMACHANDRA D. HUDDAR
MISCELLANEOUS FIRST APPEAL NO. 379 OF 2021 (MV-I)

BETWEEN:

HEMAKKA
W/O LATE RAMESH
AGED ABOUT 36 YEARS
TAILORING AND AGRICULTURE
PRESENTLY NIL
R/O UDDAGATEE VILLAGE
HARAPANAHALLY TALUK-583 131

...APPELLANT

(BY SRI. R. SHASHIDHARA, ADVOCATE)

AND:

1. LAKKAPPA
S/O BASAPPA
AGED 64 YEARS
DRIVER CUM OWNER OF AUTO
BEARING KA-17/C-0310
R/O UDDAGATTI VILLAGE
HARAPANAHALLY TALUK-583 131
2. THE MANAGER
CHOLAMANDALAM MS GENERAL
INSURANCE CO. LTD.,
DIVISIONAL OFFICE
AVK COLLEGE ROAD, 2ND MAIN ROAD
BEYOND ALLAHABAD BANK



P.J.BADAVANE
DAVANAGERE-577 001

...RESPONDENTS

(BY SRI. B.C. SHIVANNE GOWDA, ADVOCATE FOR
SRI. B. PRADEEP, ADVOCATE FOR R2;
VIDE ORDER DTD.17.03.2023, NOTICE
TO R1 IS DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED. 25.02.2020, PASSED IN MVC
NO.562/2019, ON THE FILE OF THE PRINCIPAL SENIOR CIVIL
JUDGE AND MACT-IV, DAVANAGERE, PARTLY ALLOWING THE
CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE RAMACHANDRA D. HUDDAR

ORAL JUDGMENT

Appellant-claimant being aggrieved and dissatisfied
with the judgment and award dated 25.02.2000 passed in
MVC No.562/2019 by the Prl.Sr.Civil Judge and Member,
MACT-IV, Davanagere, has filed this appeal seeking
enhancement of compensation.



2. The facts which are undisputed between both the parties are that, the petitioner, on 3.8.2018 at about 3.18 p.m. after completion of her work was returning to Harapanahalli in an autorikshaw bearing Reg. No.KA-17/C-0310 at that time, since some passengers showed their hands with an indication to stop the autorikshaw in order to enable them to board the autorikshaw, respondent no.1 suddenly took auto towards left side, as a result of that, the auto tumbled and caused accident. As a result of that, the petitioner sustained grievous injuries to her right hand, right forehead, right forehead, right waist and fracture of her right hand and injuries over other parts of the body. Therefore, she filed claim petitioner claiming compensation under Section 166 of MV Act before the Tribunal. The Tribunal, after enquiry, awarded compensation of Rs.1,89,200/- as under:



Sl. No	Heads	Amount in Rs.
1.	Pain & sufferings	30,000-00
2.	Food, Nourishment, conveyance and attendant charges.	4,000-00
3.	Loss of Income during Laid-up period	27,000-00
4.	Medical Expenses	21,000-00
5.	Loss of earning due to disability	97,200-00
6.	Loss of amenities and unhappiness	10,000-00
	TOTAL	1,89,200-00

3. Being dissatisfied with the said award of compensation, now the appellant-claimant in this appeal specifically contends that, the said accident has taken place on 3.8.2018. The Tribunal has wrongly assessed the income of the claimant at Rs.9,000/- per month which is on lower side. The Tribunal has awarded a meager compensation towards Pain and Sufferings, Medical Expenses, loss of amenities, etc.,

4. So far as the accident and injuries sustained by the claimant as stated supra, there is no dispute. The



only grievance of the appellant is that notional income taken at Rs.9,000/- is incorrect and subsequent grant of compensation of Rs.97,200/- based on that is incorrect.

5. It is submitted by the learned counsel for the petitioner that, the petitioner was an agriculturist and was getting income of Rs.20,000/- per month, but, the Tribunal has taken only Rs.9,000/-. However, no documents are produced to show her actual income. In the absence of the same, he submits to consider the guideline issued by the KSLSA with regard to proof of income.

6. As per the guidelines issued by the KSLSA, as the accident has taken place in the year 2018, the notional income to be taken is at Rs.12,500/-. The Tribunal has taken disability to the extent of 6% to the whole body. Considering the evidence placed on record, based upon the evidence of the Doctor stating disability to a particular limb at 19%, the disability taken at 6% is just and proper. Since the petitioner was aged 36 years at the time of



accident, as per the judgment in ***Sarla Verma and Ors. v. Delhi Transport Corporation and Anr*** reported in ***AIR 2009 SC 3104***, the proper multiplier for her age is '15'. Thus, the 'loss of income due to disability' is assessed at Rs.1,35,000/- (Rs.12,500 x 12 x 15 x 6/100).

7. So far as other heads are concerned, Tribunal has awarded Rs.4,000/- towards Food, Nourishment and Conveyance, is just and proper. Tribunal has awarded Rs.30,000/- towards pain and suffering, is just and proper. She must have been idled at least for a period of three months because of these injuries. Thus, as her income is taken at Rs.12,500/-, it is to be multiplied with 3 months, that it would be Rs.37,500/-. So far as medical expenses are concerned, it is based on actuals. Thus, amount of Rs.21,000/- granted to the petitioner towards medical expenses is just and proper. Towards loss of amenities, the Tribunal has awarded Rs.10,000/- which, in my opinion, requires enhancement. Hence, it is enhanced to Rs.15,000/-.



8. Thus, the appellant-claimant is entitled for compensation as under:

Sl. No	Heads	Amount in Rs.
1.	Pain & sufferings	30,000-00
2.	Food, Nourishment, conveyance and attendant charges.	4,000-00
3.	Loss of Income during Laid-up period	37,500-00
4.	Medical Expenses	21,000-00
5.	Loss of income due to disability	1,35,000-00
6.	Loss of amenities and unhappiness	15,000-00
	TOTAL	2,42,500-00

9. In view of the discussion supra, the appellant-claimant is held entitled for a total compensation of Rs.2,42,500/- as against Rs.1,89,200/- awarded by the Tribunal, thereby, there is enhancement of compensation at Rs.53,300/-. So far as liability is concerned, as respondent nos.1 and 2 are jointly and severally liable to pay the compensation. However, under the law of indemnity, respondent no.2 to deposit the compensation



amount together with interest at 6% p.a. before the Tribunal within six weeks from the date of this judgment. As the compensation so awarded is meager; same is directed to be released in favour of appellant digitally with proper identification.

10. Accordingly, pass the following:

ORDER

- (i) The appeal is ***allowed-in-part***.
- (ii) The impugned judgment and award passed in MVC No.562/2019 dated 25.02.2020 passed by the Prl.Senior Civil Judge and Member, MACT-IV, Davangere, is hereby modified.
- (iii) Accordingly, the appellants/petitioner is held entitled for total compensation of **Rs.2,42,500/-** as against Rs.1,89,200/- awarded by the tribunal, thereby there would be enhancement of Rs.53,300/-



together with interest @ 6% p.a. on the enhanced amount from the date of petition till its deposit.

(iv) Respondent No.2 shall deposit the compensation amount within six weeks from the date of judgment together with interest @6% before the tribunal, on deposit, the tribunal shall release the same in favour of the appellant digitally on proper identification.

(v) So far as the order of tribunal regarding release of the amount is concerned, it remains unaltered.

(vi) There shall be modified award accordingly.

Sd/-
(RAMACHANDRA D. HUDDAR)
JUDGE