



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 2475 OF 2022 (MV-I)

BETWEEN:

M/S THE ORIENTAL INSURANCE CO. LTD.,
NO.1 AND 2, II FLOOR, 1ST CROSS
SIDDAPURA, OPP. 9TH CROSS
WILSON GARDEN, HOSUR ROAD
BANGALROE 560 027
B H ROAD, TIPTUR
NOW REPRESENTED BY
M/S THE ORIENTAL
INSURANCE CO. LTD.,
REGIONAL OFFICE NO.44/45
LEO SHOPPING COMPLEX
RESIDENCY ROAD
BANGALORE 560 025
REPRESENTED BY ITS
AUTHORISED SIGNATORY.

...APPELLANT

(BY SRI. SURESH K., ADVOCATE)

AND:

1. SRI. SATISHKUMAR G.K
S/O KARIYAPPA
AGED ABOUT 39 YEARS
R/O GUDIGONDANAHALLI
TIPTUR TALUK 572 217.
2. SRI YOGEEESH M G
S/O SRI GANGADHARAPPA
AGED ABOUT 31 YEARS
R/AT SRI GOWRI NILAYA

Digitally signed
by ANNAPURNA
G



Location: HIGH
COURT OF
KARNATAKA



3RD CROSS, NEAR HASSAN CIRCLE
VIDYANAGARA, TIPTUR 572 201.

...RESPONDENTS

(BY SRI. M B RYAKHA., ADVOCATE FOR R1;
NOTICE TO R2 IS HELD SUFFICIENT
V/O DATED 05.02.2024)

THIS MFA IS FILED U/S 173(1) OF MV ACT, 1988 AGAINST THE JUDGMENT AND AWARD DATED 12.11.2021 PASSED IN MVC NO.452/2016 ON THE FILE OF THE SENIOR CIVIL JUDGE AND J.M.F.C., TIPTUR, AWARDED COMPENSATION OF RS.3,19,280/- WITH INTEREST AT 9 PERCENT P.A. FROM THE DATE OF PETITION TILL THE DATE OF PAYMENT.

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

CORAM: HON'BLE MR. JUSTICE UMESH M ADIGA

ORAL JUDGMENT

This appeal is filed by the insurer challenging the judgment and award dated 12.11.2021 passed by the Senior Civil Judge and (for short 'Tribunal'), in MVC No.452/2016, questioning the quantum of compensation.

2. Though this appeal is slated for admission, with consent of learned advocates appearing for both the sides, it is taken up for final disposal.



3. For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

4. The brief facts of the case are that, on 27.11.2015 at about 8.00 p.m, the claimant/petitioner was coming from Hassan circle to I.B. Circle as a pedestrian on the left side of N.H.206 road. At Government Boys College, he met with an accident due to rash and negligent driving of a motor cycle bearing registration No.KA-44-R-1719, as a result of which he sustained grievous injuries. Due to the injuries sustained in the accident, he has suffered from permanent disability. With these reasons, the claimant has prayed for awarding the compensation.

5. The respondent No.1 was the owner and respondent No.2 was the insurer of the offending motorcycle. Respondent No.2-insurer in its written statement denied the petition averments and denied its liability and prayed to dismiss the claim petition.

6. From the rival contentions of the parties, the Tribunal framed necessary issues.



7. The claimant to prove his case, examined two witnesses as PW-1 and PW-2 and marked 10 documents, as per Exs.P-1 to P-10. The respondent-Insurance Company did not examine any witness but marked Exs.R-1 - true copy of the policy.

8. The Tribunal after hearing both parties and appreciating the evidence on record, by the impugned judgment, awarded the following amount of compensation:

Particulars	Amount in Rs.
Injury, pain and sufferings	1,00,000
Medical expenses	31,200
Future medical expenses	15,000
Loss of earning during bed rest	27,000
Loss of future earning capacity prospects	1,36,080
Food, transport, conveyance, amenities, nourishment	10,000
Total	3,19,280

9. Heard the arguments of the learned counsel appearing for the claimant as well as the insurer.

10. The fact of the accident and injuries sustained by the claimant are not in serious dispute. Therefore, there is no need to reconsider the same.



11. The learned counsel for the appellant contends that claimant has contributed for causing accident in question. Unmindfully, he was trying to cross the road for taking photos, at that time, incident occurred. The Tribunal has not considered the same. The learned counsel for respondent/claimant contends that at the time of accident, the claimant was not crossing the road as per his pleadings and evidence. Therefore, the contention of the appellant that he had contributed for the accident in question is not tenable.

12. The submission of learned counsel for the respondent is tenable. It is the pleading and evidence of PW-1 that while he was going from Hassan circle towards I.B. circle on foot path, the rider of the motor cycle came from his back side and hit him. He has not at all pleaded or stated that while crossing the road the accident occurred. Therefore, contention of the insurer that when claimant was taking photos accident occurred is not at all case made out by the claimant. Therefore, there are no reason to hold that claimant had contributed in occurrence of the accident.



13. The learned counsel for the appellant contends that reasons stated by the Trial Court while assessment of compensation are not consistent. The Tribunal in paragraph No.17 of the impugned judgment assessed disability as 12% to the whole body. In paragraph No.24 also, disability is assessed as 12%. But while calculating the amount of compensation, disability is taken as 19%. According to the case of claimant, he was aged about 33 years. The Tribunal without any basis assessed the multiplier as '18' instead of '16'. Even the amount awarded by the Tribunal under the head loss of future earning capacity due to permanent disability is also not correct. Therefore, prays to set aside the same.

14. The submission of learned counsel for the appellant in this regard is tenable. Tribunal in paragraph No.24 considered the permanent disability and determined it as 12% to the whole body. But in later part of same paragraph, while calculating the compensation it has taken 19% and applied multiplier as '18' instead of '16'. This needs correction. The appellant could have filed a review petition before the very same court instead of filing this appeal. The Tribunal calculated



the compensation under the head 'loss of future earning capacity due to permanent disability' as under ($\text{Rs.}9,000 \times 12 \times 18 \times 7\% = \text{Rs.}1,36,080/-$). The Tribunal has neither taken disability as 12% or 19%, but suddenly took disability as 7%. In fact, claimant is entitled for the compensation under the head 'loss of future earning capacity due to permanent disability' as ($\text{Rs.}9,000 \times 12 \times 16 \times 12\% = \text{Rs.}2,07,260/-$). The learned counsel for the appellant submits that the said correction need not be incorporated in the order, which would prejudice the case of insurance company. The said contention is not acceptable. It is a beneficial legislation. If there is an arithmetical mistakes it shall be corrected, when it is noticed by the Court.

15. On re-appreciation of the materials, the amount awarded by the Tribunal under the head 'pain and suffering' is on the higher side. Looking at the materials, claimant is entitled for compensation of Rs.50,000/- under the head 'Pain and suffering.'

16. The learned counsel for the appellant seriously challenges the rate of interest awarded by the Tribunal.



Awarding of interest is at the discretion of the Tribunal as per Section 171 of the Motor Vehicle Act, 1988. The Tribunal assigned the reason and followed the judgment of Hon'ble Apex Court in the case of ***Jithendra Khimshankar Trivedi and others vs. Kasam Daud Kumbhar and others***¹ and awarded the rate of interest. The said finding does not call for any interference.

17. The learned counsel for the appellant relies on the judgment in the case of ***Joyeeta Bose and Others vs. Venkateshan. V and Others*** decided on 27.08.2020 in MFA No.5896/2018 and connected matters and submits that the Division Bench of this Court held that interest shall be awarded at the rate of 6% per annum. He further stated that according to Section 34 of CPC, interest shall be awarded at the rate of 6% per annum. Thus, contended that interest awarded is on the higher side.

18. The Tribunal has relied on the judgment of Hon'ble Supreme Court stated above while awarding the rate of interest. Moreover, if the interest awarded by the Tribunal is

¹ (2015) 3 CLJ 668 sc



unjust then only this Court has to interfere in the said finding. Since it is based on the judgment of the Hon'ble Apex Court, there is no need to reconsider the same.

19. The claimant is entitled for following amount of compensation:

Particulars	Amount in Rs.
Pain and sufferings	50,000
Medical expenses	31,200
Future medical expenses	15,000
Loss of earning during laid up period (Rs.9,000x3)	27,000
Loss of future earning capacity due to permanent disability (Rs.9,000x12x16x12%)	2,07,360
Food, transport, conveyance, amenities, nourishment	10,000
Total	3,40,560

20. In all, claimant is entitled for Rs.3,40,560/- as against Rs.3,19,280/- awarded by the Tribunal.

21. Claimant is entitled for interest at the rate of 6% per annum from the date of the petition till its realisation. Undisputedly, respondent is liable to pay the same.

22. In the result, I proceed to pass the following:



ORDER

- i) The Appeal is ***allowed in part.***
- ii) The judgment and award dated 12.11.2021 passed by the Senior Civil Judge and JMFC, Tiptur in MVC No.452/2016, stands modified.
- iii) The claimant is entitled to compensation of Rs.3,40,560/- as against Rs.3,19,280/- with interest at the rate of 6% p.a., from the date of petition till its realization.
- iv) The respondent No-2 - Insurance Company shall deposit the amount within a period of six weeks from the date of award.
- v) The remaining portion of the award of the Tribunal shall remain unaltered.
- vi) Whatever the amount deposited by the insurer shall be transmitted to the Tribunal for disbursement.
- vi) Draw award accordingly.



NC: 2025:KHC:51100
MFA No. 2475 of 2022

Registry is directed to send back the records along with a copy of this judgment to the concerned Tribunal.

Sd/-
(UMESH M ADIGA)
JUDGE

AMA,AG
List No.: 1 SI No.: 21