



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 2435 OF 2020 (MV-I)

BETWEEN:

SMT. GIRIJA
W/O B.K. BHASKARA
AGED 59 YEARS,
R/AT D.NO.1-65,
MALARAYA SANA HOUSE,
OPP. TO VRL PRESS,
BANGRA KULUR, MANGALURU

...APPELLANT

(BY SRI. GURUPRASAD B.R, ADVOCATE)

AND:

1. UNITED INDIA INSURANCE CO. LTD.,
SREE VITTAL MAIN ROAD,
SURATHKAL, MANGALURU - 57
REPRESENTED BY ITS MANAGER.
2. MR. SIRAJUDDIN
S/O AHMED BAVA
AGED 48 YEARS,
R/AT 2/47 KATIPALLA,
BLOCK NO.2, MANGALURU.
3. MR. RATAN SINGH
S/O NOT KNOWN
AGED MAJOR,



NAVARATAN ELECTRICALS,
SHOP NO.14, D.NO.12/139
SHRINIVAS ARCADE, B.C.ROAD,
BANTWAL.

...RESPONDENTS

(BY SRI. NAGARAJAIAH K, ADVOCATE FOR R1;
VIDE ORDER DATED 27.02.2024, NOTICE TO R2 AND R3 IS
DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED. 10.07.2019, PASSED IN MVC
NO.1663/2017, ON THE FILE OF THE I-ADDITIONAL DISTRICT
JUDGE AND II-MACT, MANGALURU, D.K. 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 UMESH M ADIGA

ORAL JUDGMENT

This appeal is filed by the claimant challenging the
judgment and award dated 10.07.2019 passed by the
I Additional District Judge and II Additional Motor Accident
Claims Tribunal (for short `Tribunal'), Mangaluru (DK) in
MVC No.1663/2017 seeking enhancement of
compensation.



2. Though 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 10.07.2017, when the petitioner was standing on mud road in front of Reliance Petrol Pump at Udupi-Mangalore National Highway, for crossing the road, at about 2.20 p.m., the driver of a car bearing registration No.KA.19/N.9134 came with high speed, in rash and negligent manner from Mangalore side towards Kuloor and hit the petitioner. Due to the impact of the accident, the petitioner sustained grievous injuries. Immediately after the accident, she was shifted to A.J. Hospital Kuntikana, Mangalore. She has spent substantial amount towards medical expenses. Due to the injuries sustained in the accident, she has suffered permanent disability and loss of



her earning capacity. With these reasons, the claimant prayed to award compensation.

5. The respondent No.1 was the owner and respondent No.2 was the insurer of the offending motorcycle. Respondent No.3 was previous owner in whose name R.C. was standing at the time of accident. Respondent No.2 in its written statement denied petition averments, denied their liability to pay the compensation and prayed to dismiss the petition.

6. Respondent No.3 is the RC holder of the said vehicle and he insured the said vehicle with respondent No.2. He contended that he sold the vehicle to respondent No.1. At the time of accident, respondent No.1 was the owner of the said vehicle, but he failed to change his name in the registration certificate. Therefore, still the name of respondent No.3 is shown as the owner of said vehicle in the R.C./Transport Authority records and he is not liable to



pay the compensation. With these reasons, he prayed to dismiss the claim petition.

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

7. The claimant to prove her case examined 4 witnesses as PW-1 to PW-4 and marked 12 documents, as per Exs.P-1 to P-12. The respondent No.3 has examined one witness (RW-1) and marked Exs.R-1.

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

Particulars	Amount in Rs.
Pain and suffering	10,000/-
Medical expenses	1,01,293/-
Conveyance, nutritious food and attendant charges	23,000/-
Loss of amenities in life	10,000/-
Loss of future earnings	27,000/-



TOTAL	1,71,293/-
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Being aggrieved by the said award passed by the Tribunal, the claimant has filed the present appeal seeking enhancement of compensation.

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

10. Learned counsel for the appellant/claimant contended that the compensation awarded by the Tribunal is inadequate; The Tribunal has not considered the income of the claimant properly and the disability assessed is also on the lower side; He further contends that as per the pleadings, earning of the claimant per day was Rs.800/-, but the Tribunal has taken income of the claimant as Rs.5,000/- per month, which is highly on the lower side. He further contends that even if notional income chart prepared by the Karnataka State Legal Services Authority is followed, the Tribunal ought to have taken the income as Rs.11,000/- per month. He further



contends that as per the Employees Compensation Act, amputation of the great toe, leads to a permanent disability at 15%. The disability stated by PW-2 is not a functional disability, but physical disability. The Tribunal ought to have considered these facts and assessed the compensation considering the disability on the basis of the Employees Compensation Act. The compensation awarded under other heads are also on the lower side. Hence, prayed for enhancement of the compensation.

11. Learned counsel for respondent No.2-insurer submitted that the Tribunal has properly considered the case of the claimant and has awarded a just and reasonable compensation, which does not call for any interference by this Court. The PW-2 has assessed the disability at 15% to the lower limb. When it is compared to whole body, it should be $\frac{1}{3}^{\text{rd}}$. Therefore, the Tribunal has taken disability at 5% and hence, the contention of the appellant in this regard is not tenable and prayed for dismissal of the appeal.



12. Fact of the accident is not in dispute. The Tribunal after appreciating the evidence on record, held that the accident occurred due to the negligence of driver of the car, which is not in dispute by either side. Hence, there is no need to reconsider the same.

13. Considering the materials available on record, the amount of compensation awarded by the Tribunal and most of the heads are on the lower side. Claimant sustained fracture of metatarsal bone and due to the injuries sustained in the incident, her great toe of right leg was amputated. She was aged about 56 years and said to be a coolie, therefore, certainly it would affect her earning capacity. It is true that PW-2 in his evidence has stated that disability suffered by claimant is 15% to the right lower limb. The Tribunal in accordance with the ALAMCO manual/notification issued by the Central Government has taken 1/3rd of the same as a permanent disability to the whole body. Motor vehicle Act is a beneficial and welfare



legislation. Therefore, whatever best possible benefits could be given to the victims of an accident, has to be given to them. Looking at the nature of injuries, amputation, age and occupation, the disability affecting her earning capacity is taken as 10% to the whole body, though according to the Tribunal, it is 5%. Tribunal has not awarded compensation towards loss of income during laid up period. At least for a period of 2 to 3 months, she might not be able to work and she has lost the said earnings, which requires to be compensated.

14. The claimant contended that she was earning Rs.800/- per day, but she was unable to prove the same. Following the notional income chart prepared by the Karnataka State Legal Services Authority, the income of the claimant is taken as Rs.11,000/- per month.

15. The age of the claimant at the time of the accident was 56 years. The multiplier applicable in this case is '9' as per the judgment of the Hon'ble Apex Court



in the case of ***Sarla Verma -vs- Delhi Transport Corporation and others, reported in (2009) 6 SCC 121.***

On the basis of the same, loss of future earning capacity due to permanent disability is to be assessed.

16. For the aforesaid discussions, the claimant is entitled to following amount of compensation :

Particulars	Amount in Rs.
Pain and suffering	40,000/-
Medical expenses	1,01,293/-
Attendant expenses, special diet and conveyance charges	30,000/-
Loss of income during laid up period (Rs.11,000/- x 2)	22,000/-
Loss of income due to permanent disability (Rs.11,000/- x 12 x 9 x 10%)	1,18,800/-
Loss of amenities	25,000/-
<i>Total</i>	<i>3,37,093/-</i>
<i>Amount awarded by the Tribunal</i>	<i>1,71,500/-</i>
<i>Enhancement-</i>	<i>1,65,593/-</i>
<i>Rounded off -</i>	<i>1,66,000/-</i>



The claimant is also entitled to interest at the rate of 6% p.a. on the enhanced compensation from the date of petition till its realisation.

17. Respondent Nos.1 and 2 are jointly and severally liable to pay the said amount of compensation.

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

ORDER

- i) The Appeal is ***allowed in part.***
- ii) The judgment and award dated 10.07.2019, passed by the I Additional District Judge & II Additional Motor Accident Claims Tribunal, Mangaluru (DK) in MVC No.1663/2017, stands modified.
- iii) The claimant is entitled to enhanced compensation of **Rs.1,66,000/-**, 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) Draw award accordingly.

Registry is directed to send copy of this judgment to the concerned Tribunal.

Sd/-
(UMESH M ADIGA)
JUDGE

JY
List No.: 1 Sl No.: 17
CT: BHK