



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 5052 OF 2020 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 4882 OF 2020 (MV-I)

IN MFA No. 5052/2020

BETWEEN:

SMT. PADMA MANJUNATHA ACHARYA,
D/O NARAYANA ACHARY
AGED ABOUT 47 YEARS
R/O MAVINATOL, BENGRE
ULMAN, BHATKAL TALUK
U.K KISTRICK.

...APPELLANT

(BY SRI. NAGARAJA H.R, ADVOCATE)

AND:

1. SRI. KESHAV NAIK
S/O BAIRA NAIK
AGED ABOUT 27 YEARS,
R/O MOODSHIRALI, SHIRALI
BHATKAL TALUK.
2. THE UNITED INDIA INSURANCE CO. LTD.,
BRANCH OFFICE: KUNDAPURA,
SRI LAXMI VENKATESH COMPLEX,
N.H.66, VADERHOBOLI, KUNDAPURA
REPRESENTED BY
ITS BRANCH MANAGER.

...RESPONDENTS



NC: 2025:KHC:54376
MFA No. 5052 of 2020
C/W MFA No. 4882 of 2020

(BY SRI. LAKSHMI NARASAPPA, ADVOCATE FOR
SRI. A.M. VENKATESH, ADVOCATE FOR R2;
R1 SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 19.11.2019 PASSED IN MVC
NO.635/2018 ON THE FILE OF THE ADDITIONAL DISTRICT
JUDGE, ADDITIONAL MACT, UDUPI (SITTING AT KUNDAPURA),
KUNDAPURA, PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

IN MFA NO. 4882/2020

BETWEEN:

SMT. SUSHEELA VENKATRAMANA ACHARY
D/O SUBRAYA ACHARY,
AGED ABOUT 57 YEARS,
R/O MAVINATOL, BENGRE,
BHATKAL TALUK, U.K. DISTRICT.

...APPELLANT

(BY SRI. NAGARAJA H.R, ADVOCATE)

AND:

1. SRI. KESHAV NAIK
S/O BAIRA NAIK
AGED ABOUT 27 YEARS,
R/O MOODSHIRALI, SHIRALI
BHATKAL TALUK.
2. THE UNITED INDIA INSURANCE CO. LTD.,
BRANCH OFFICE: KUNDAPURA
SRI LAXMIVENKATESH COMPLEX
N.H 66, VADERHOBLI
KUNDAPURA, REP. BY ITS
BRANCH MANAGER.

...RESPONDENTS

(BY SRI. LAKSHMI NARASAPPA, ADVOCATE FOR
SRI. A.M. VENKATESH, ADVOCATE FOR R2;
R1 SERVED AND UNREPRESENTED)



NC: 2025:KHC:54376
MFA No. 5052 of 2020
C/W MFA No. 4882 of 2020

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 19.11.2019 PASSED IN MVC NO.633/2018 ON THE FILE OF THE ADDITIONAL DISTRICT JUDGE AND ADDITIONAL MACT, UDUPI, (SITTING AT KUNDAPURA), KUNDAPURA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE UMESH M ADIGA

ORAL JUDGMENT

Both these appeals arises out of judgment and award dated 19th November 2019, passed by the Additional District Judge and Additional MACT, Udupi, Sitting at Kundapura, (for short `Tribunal'), in MVC Nos.635/2018 and 633/2018. The appellant in MFA No.5052/2020 is claimant in MVC No.635/2018 and the appellant in MFA No.4882/2020 is claimant in MVC No.633/2018. Both claim petition arises out of common accident and both the appeals arise out of a common judgment and award, they are taken up together for disposal.



Though this appeal is listed for hearing on admission, with the consent of both the parties it is taken up for final disposal.

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

3. The brief facts of the case are that, on 15.12.2017 the claimants in MVC Nos.635/2018 and 633/2018 were travelling as passengers in a auto rickshaw bearing registration No.KA-47-5099 at Mavinakatte, Bengre, Bhatkal Taluk, and they met with an accident due to rash and negligent riding of the motorcycle bearing registration No.KA-47-J-9582. As a result, the pillion rider of the motorcycle as well as both the passengers in the auto rickshaw sustained grievous injuries. The claimants in both the cases took treatment as inpatient and have suffered permanent disability. With these reasons, they prayed to award the compensation.

4. Respondent No.1 was the owner and respondent No.2 was the insurer of the offending



motorcycle. Respondent No.1 remained *ex parte* before the Tribunal. Respondent No.2 in its written statement denied the petition averments, denied its liability to pay the compensation and prayed to dismiss the claim petition.

5. The Tribunal has taken up all three petitions arising out of a common accident i.e., MVC No.552/2018 (pillion rider of the offending motorcycle), MVC No.633/2018 (appellant in MFA No.4882/2020) and MVC No.635/2018 (appellant in MFA No.5052/2020). Common evidence was recorded and all three petitions were disposed of by the common judgment and award dated 19.11.2019. The same is challenged by the claimants in MVC Nos.633/2018 and 635/2018.

6. The fact of the accident and injuries sustained by the claimants are not in serious dispute. The respondent No.2-insurer has not challenged the impugned judgment and award. Therefore, there is no need to reconsider the same.



**IN MFA NO.5052/2020 (arising out of MVC
No.635/2018):**

7. Learned counsel for the appellant contends that the income of the injured, taken by the Tribunal is on the lower side. The disability assessed by the Tribunal and the compensation awarded under other heads are also on the lower side. Therefore, prayed to enhance the compensation.

8. Learned counsel for respondent No.2-insurer supported the impugned judgment and award and submitted that there is no need to interfere in the said findings of the Tribunal.

9. On reappraisal of the materials available on record, the income taken by the Tribunal is on the lower side. According to the claimant, she was earning Rs.15,000/- per month. However, the Tribunal has taken it as Rs.9,000/- per month. Compared to the chart prepared by the Karnataka State Legal Services Authority, the said amount taken by the Tribunal is on the lower side. The



accident occurred on 15.12.2017, which was about 15 days prior to commencement of the next year. Considering the said fact, income of the claimant is taken as Rs.12,500/- per month. Age of the claimant was 47 years. Therefore, multiplier applicable to the facts of the case is '13'.

10. According to evidence of the doctor, who had not treated the claimant, the claimant has suffered permanent disability of 24% to her right lower limb. Considering the same, the Tribunal compared it to the whole body, took it as 1/3rd and assessed the disability at 8%. The said finding does not call for any interference by this Court.

11. Looking at the nature of injuries, treatment taken as an inpatient for about two days and consequence of the injuries, the amount of compensation awarded under some of the heads are on the lower side. In view of the enhancement of the income, the amount awarded under the heads loss of future earning capacity due to



permanent disability as well as loss of income during laid up period requires recalculation. Accordingly, the claimant in this case is entitled to following amount of compensation:

Particulars	Amount in Rs.
Pain and sufferings	50,000/-
Medical expenses	20,000/-
Special diet, conveyance and attendant charges	20,000/-
Loss of income during laid up period (Rs.12,500/- x 3)	37,500/-
Loss of future earning capacity due to disability (Rs.12,500/- x 12 x 13 x 8%)	1,56,000
Loss of amenities	25,000/-
<i>Total</i>	<i>3,08,500/-</i>
<i>Amount awarded by the Tribunal</i>	<i>2,42,500/-</i>
<i>Enhancement-</i>	66,000/-



IN MFA NO.4882/2020:

12. Learned counsel for the appellant contends that the claimant sustained severe head injuries along with fracture of the right radius. She had taken treatment as an inpatient for 7 days. The psychologist assessed her disability at 56% cognitive disability due to head injuries and fracture of radius at 20.6%. However, the Tribunal has taken only 17% as disability, which is on the lower side. Looking at the evidence of PW.4 and PW.6 the Tribunal ought to have taken the disability as 50%. Learned counsel further contends that the amount of compensation awarded under the other heads are also on the lower side and prayed to recalculate the compensation.

13. Learned counsel for the respondents vehemently contends that the doctor who has assessed the disability has not been examined. Therefore, evidence of PW.4 and PW.6 does not help the claimant to prove her disability. The Tribunal in the impugned judgment has considered these facts and calculated the disability at



17%. The Tribunal has also considered other factors and awarded a just compensation. It does not call for any interference by this Court. Therefore, prayed to dismiss the appeal.

14. The Tribunal in the impugned judgment at paragraph Nos.14 and 15 narrated the injuries sustained by the claimant. In paragraph No.16, in detail the Tribunal has mentioned the difficulties stated by PW.2. PW.4-Dr. Sandeep Navada, was not a treated doctor. The claimant consulted him only for the purpose of assessment of the disability. Considering the head injuries and other injuries sustained by the claimant, he assessed the disability to the right upper limb at 20.6%. PW.6-Dr. Ravindra Munoli, who has treated the claimant in the KMC hospital, in his evidence at paragraph No.2, he has stated about injuries sustained by the claimant. He has not assessed the disability. On the contrary, he referred the patient for neuropsychological assessment. The concerned neurophysiologist assessed the disability at 56% cognitive



disability. In his cross-examination, he has stated that Dr.Anagha Deshmukh, has assessed disability of the claimant and given the certificate. On that basis, he has given the disability certificate. In his cross-examination, he also fairly accepted that since Dr.Anagha Deshmukh, has assessed psychological disability, he had no personal knowledge about the same. In the further cross-examination, he has stated regarding the fact that he is not aware of other factors. Considering the said facts, the Tribunal has assessed total disability as 17%.

15. PW.2-claimant in her evidence has stated about the difficulties she has been suffering due to injuries sustained in the accident. The Tribunal mainly noted that though she has stated that she has lost her memory power, but she could withstand the cross-examination. Therefore, the Tribunal has not accepted the disability given by the doctors.

16. She had sustained fracture of the right upper limb as well as severe head injuries. Ex.P.11 is her



photograph, which shows that there were sutured injuries on her head and there is internal hemorrhage in the head. Considering these facts as well as considering her age, the disability of the claimant is taken as 20% to the whole body.

17. Learned counsel for the appellant relied on the judgment of Division Bench of this Court in MFA Nos.103807/2016 and 103835/2016 and submits that the future prospectus has to be considered. The Division Bench in the said case, observed that considering the injuries sustained by the claimant and other relevant factors, future prospects were added to the claimant's income. Looking at the facts of the present case and evidence of PW.6, it is not a fit case to add future prospects.

18. Undisputedly, age of the claimant was 56 years. Therefore, multiplier applicable is '9'. On the basis of the above said factors, the compensation under the head loss of future earning capacity due to permanent disability is



reassessed. In view of the enhancement of the income, the amount of compensation to be awarded under the head loss of earnings during laid-up period needs to be recalculated. The amount of compensation awarded under the heads attendant charges as well as loss of amenities is on the lower side, which requires to be enhanced. Accordingly, the claimant is entitled to the following amount of compensation:

Particulars	Amount in Rs.
Pain and sufferings	75,000/-
Medical expenses	4,000/-
Future medical expenses	5,000/-
Special diet, conveyance and attendant charges	36,000/-
Loss of income during laid up period (Rs.12,500/- x 4)	50,000/-
Loss of future earning capacity due to disability (Rs.12,500/- x 12 x 9 x 20%)	2,70,000
Loss of amenities	50,000/-
<i>Total</i>	<i>4,90,000/-</i>
<i>Amount awarded by the Tribunal</i>	<i>3,09,000/-</i>
<i>Enhancement-</i>	<i>1,81,000/-</i>



19. The claimants in both the cases are entitled to interest on the enhanced amount of compensation at the rate of 6% per annum from the date of claim petition till its realisation. Undisputedly, respondents are liable to pay the said amount.

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

ORDER

i) MFA Nos.5052/2020 and 4882/2020
are ***allowed in part.***

ii) The impugned judgment and award dated 19th November 2019, passed in MVC.Nos.635/2018 and 633/2018, by the Additional District Judge and Additional MACT, Udupi, Sitting at Kundapura, stands modified;

iii) The claimant in MFA No.5052/2020 is entitled to enhanced compensation of Rs.66,000/- and in MFA No.4882/2020 the claimant is entitled to enhanced compensation of Rs.1,81,000/-, with interest at the rate of 6% p.a. from the date of petition till its realization.



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iv) The respondent No.2 - Insurance Company shall deposit the amount within a period of six weeks from the date of award.

v) In both the cases the enhanced amount of compensation is marginal. Therefore, entire amount is ordered to be released in favour of claimants on due identification.

vi) Draw award accordingly.

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
List No.: 1 Sl No.: 18