



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 4118 OF 2021 (MV-I)

BETWEEN:

RASHID KHAN @ RASHID AHMED
S/O LATE KHALEEL KHAN,
AGED ABOUT 41 YEARS,
DEVAGONDANAHALLI,
KALASAPURA POST, LAKKA HOBLI,
CHIKAMAGALORE.

PRESENTLY R/AT
C/O KRISHNE GOWDA,
CHIKKA HONNENAHALLI,
NEAR THANVI-THRISHA KALYANA MANTAPA,
RING ROAD, HASSAN-573 201.

...APPELLANT

(BY SMT. SHWETHA NAYAK N., ADVOCATE FOR
SRI. DHANANJAY KUMAR, ADVOCATE)

Digitally signed by KORLAHALLI
BHARATHI DEVI KRISHNACHARYA
Location: HIGH COURT OF
KARNATAKA

AND:

1. LAKSHMEESHA H P,
S/O PRABHAKARA RAO,
AGED ABOUT 48 YEARS,
C/O SANDHYA SERVICE STATION,
K.M ROAD,
CHIKMANGALURU - 577 101.
2. THE ORIENTAL INSURANCE COMPANY LTD.,
REGIONAL OFFICE, 1ST FLOOR,
NAG NIRMAL COMPLEX,
OPP. TO RANGANNA CHOULTRI,



BASAVANA HALLI MAIN ROAD,
P B NO.68,
CHIKMANGALURU- 577 101.

...RESPONDENTS

(BY SRI. ASHOK N. NAYAK, ADVOCATE FOR R2;
R1 IS SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 31.01.2020 PASSED IN MVC NO.1209/2017 ON THE FILE OF THE 2ND ADDITIONAL SENIOR CIVIL JUDGE AND ADDITIONAL MACT, HASSAN, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR HEARING, 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 31.01.2020 passed by the II Additional Senior Civil Judge and MACT, Hassan (for short 'Tribunal'), in MVC No.1209/2017, seeking enhancement of compensation.

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 20.02.2017 at about 09.30 pm, claimant met with an accident due to rash and negligent driving of a Van bearing registration No.KA-18-A-4577 near Uppalli. As a result, claimant sustained dislocation of fracture of right elbow and other minor injuries and he has suffered permanent disability. With these reasons, the claimant has prayed for awarding of compensation.

4. The respondent No.1 was the owner and respondent No.2 was the insurer of the offending van. Respondent No.1 remained *ex-parte* before the Tribunal. Respondent No.2 filed its written statement denying the contents of the claim petition and also denied its liability to pay the compensation. With these reasons, it prayed to dismiss the claim petition.

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



6. The claimant to prove his case, examined 02 witnesses as PWs-1 to 2 and marked 20 documents, as per Exs.P1 to P20. The respondent-Insurance Company has examined 01 witnesses as RW.1 and marked 01 document as Ex.R1.

7. 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.
Pain and suffering	45,000/-
Attendant expenses, special diet and conveyance charges	20,000/-
Loss of income during laid up period	18,000/-
Loss of income due to permanent disability	1,40,400/-
Loss of amenities	30,000/-
<i>Total</i>	<i>2,35,400/-</i>

Being aggrieved by the said award passed by the Tribunal, the claimant has filed the present appeal for enhancement of compensation.



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

9. 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; The compensation awarded under other heads are also on the lower side. Hence, prayed for enhancement of the compensation.

10. Learned counsel for respondent No.1-insurer submitted that the Tribunal has properly considered the case of the claimant and has awarded just and reasonable compensation, which does not call for any interference by this Court and prayed for dismissal of the appeal.

11. Fact of the accident is not in dispute. As per the medical records, claimant has suffered dislocation and fracture of right elbow and he has also sustained lacerated wound over the back side of the head and right knee joint.



He underwent surgery and he was admitted as an inpatient for treatment from 21.02.2017 to 03.03.2017. Thereafter, he took follow-up treatment. According to evidence of PW.2, the claimant has suffered permanent disability of 32% to the right upper limb. The Tribunal has taken it 10% when compared to whole body.

12. On the basis of the said materials available on record, the amount of compensation awarded under the head 'loss of pain and suffering', 'loss of income during laid up period' and 'attendant expenses, special diet and conveyance charges' etc., are on the lower side.

13. The claimant contended that he was earning Rs.20,000/- per month. The Tribunal has taken notional income of the claimant at Rs.9,000/- per month. Compared to the notional income chart prepared by the Karnataka State Legal Services Authority, the said amount is on the lower side. Following the notional income chart



prepared by the KSLSA, the income of the claimant is taken as Rs.11,000/- per month.

14. The disability assessed by the Tribunal is proper. According to PW.2, the disability to the right upper limb is 30%. Tribunal has considered 1/3rd of the same and determined the disability as 10%. It does not call for any interference.

15. The age of the claimant at the time of the accident was 38 years. The multiplier applicable in this case is '13' 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	60,000/-
Attendant expenses, special diet and conveyance charges	25,000/-
Loss of income during laid up period (Rs.11,000/- x 3 months)	33,000/-
Loss of income due to permanent disability (Rs.11,000/- x 12 x 13 x 10%)	1,71,600/-
Loss of amenities	50,000/-
<i>Total</i>	<i>3,39,600/-</i>
<i>Amount awarded by the Tribunal</i>	<i>2,35,400/-</i>
<i>Enhancement-</i>	<i>1,04,200/-</i>
<i>Rounded off -</i>	<i>1,05,000/-</i>

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

17. Undisputedly, the respondents are 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 31.01.2020 passed by the II Additional Senior Civil Judge and MACT, Hassan, in MVC No.1209/2017, stands modified;

iii) The claimant is entitled to enhanced compensation of Rs.1,05,000/-, 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 back the records along with a copy of this judgment to the concerned Tribunal.

**Sd/-
(UMESH M ADIGA)
JUDGE**