



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.5001 OF 2022 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO.4851 OF 2022 (MV-I)

IN MFA No.5001/2022:

BETWEEN:

MR. VINODA K.R
S/O RAMAKRISHNAYYA K.L,
AGED ABOUT 24 YEARS,
R/AT NO.42, 1ST CROSS,
HARINAGAR CROSS,
ANJANAPURA,
BENGALURU -560 062.

ALSO AT NO.37,
KAMALAPURA MAIN ROAD,
KAGGANAHALLI,
RAMANAGARA DISTRICT.

...APPELLANT

(BY SRI. GURUDEV PRASAD K.T.,ADVOCATE)

AND:

1. M/S CHOLAMANDALAM
MS GENERAL INS.CO.LTD.,
UNIT NO.4, 9TH FLOOR, LEVEL-6,
GOLDEN HEIGHTS COMPLEX,
59TH 'C' CROSS ROAD,
4TH 'M' BLOCK, INDUSTRIAL SUB-URB,
RAJAJINAGAR,



BENGALURU -560 010.
BY ITS MANAGER.

2. SRI. SHIVARUDRE GOWDA,
S/O ANCHEGOWDA,
MADUVEKETTALADODDI VILL ACHALU
SATHANUR POST, KANAKAPURA TALUK,
RAMANAGAR DISTRICT.
PIN-571 098.

...RESPONDENTS

(BY SRI. H.S.LINGARAJ, ADVOCATE FOR R1,
SMT.NITHYA V, ADVOCATE FOR
SRI.PRAKASH M.H., ADVOCATE FOR R2)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 30.03.2022 PASSED IN MVC
NO.291/2020 ON THE FILE OF THE I ADDITIONAL SMALL
CAUSES JUDGE AND MACT, BENGALURU SCCH-11, PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA NO.4851/2022

BETWEEN:

SRI. SHIVARUDRE GOWDA
S/O ANCHEGOWDA,
AGED 56 YEARS,
R/AT: MADUVEKETTALADODDI VILL ACHALU,
SATHANUR POST,
KANAKAPURA TALUK,
RAMANAGARA DIST-562 117.

...APPELLANT

(BY SMT. NITHYA V, ADVOCATE FOR
SRI. PRAKASH M.H., ADVOCATE)



NC: 2025:KHC:51245
MFA No. 5001 of 2022
C/W MFA No. 4851 of 2022

AND:

1. SRI. VONODA K.R.
S/O RAMAKRISHNAYYA K L,
AGED 24 YEARS,
R/AT: NO.42, 1ST CROSS,
HARINAGAR CROSS,
ANJANAPURA,
BANGALORE-560 062.

AND ALSO AT:
NO.37, KAMALAPUR MAIN ROAD,
KAGGANAHALLI,
RAMANAGARA DIST-562 117.

2. CHOLAMANDALAM MS.GIC LTD.,
UNIT NO.4, 9TH FLOOR, LEVEL-6,,
GOLDEN HEIGHTS COMPLEX,
59TH C CROSS ROAD,
4TH M BLOCK,
INDUSTRIAL SUB URB,
RAJAJINAGAR,
BANGALORE-560 010.

...RESPONDENTS

(BY SRI. GURUDEV PRASAD K.T.,ADVOCATE FOR R1,
SRI.H.S.LINAGARAJ, ADVOCATE FOR R2)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 30.03.2022 PASSED IN MVC
NO. 291/2020 ON THE FILE OF THE I ADDITIONAL SMALL
CAUSES JUDGE AND MACT, BENGALURU(SCCH-11),
AWARDING COMPENSATION OF RS. 5,84,945 WITH INTEREST
AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL
REALIZATION.

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



CORAM: HON'BLE MR. JUSTICE UMESH M ADIGA

ORAL JUDGMENT

Both these appeals arises out of the judgment and award dated 30.03.2022 passed by the I Addl.Small Causes Judge and MACT, Bengaluru (for short `Tribunal'), in MVC No.291/2020.

2. Claimant has filed MFA.No.5001/2022 seeking enhancement of compensation and owner of the vehicle has filed MFA.No.4851/2022 for fastening of the liability on the insurer.

3. Both the appeals arise out of common judgment and award, therefore they are taken up together for disposal.

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

5. The brief facts of the case are that, on 06.12.2019 at about 8.00 a.m., the petitioner was going on a motor cycle bearing registration No.KA-52-HB-7197 on Kanakapura road; Near Bolore village, Uttarahalli Hobli,



Bengaluru south, he met with an accident due to rash and negligent driving of Tractor bearing registration No.KA-42-T-5986. As a result, the claimant fell down and sustained grievous injuries. He has spent substantial amount towards medical expenses. Due to the injuries sustained in the accident, he has suffered from permanent disability. With these reasons, the claimant has prayed for awarding of compensation.

6. The respondent No.1 was the insurer and respondent No.2 was the owner of the offending Tractor. Respondent No.1 filed its written statement denying the averments of the claim petition and also denied its liability to pay the compensation. With these reasons, it prayed to dismiss the claim petition.

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

8. The claimant to prove his case, examined three witnesses as PW-1 to PW-3 and marked 17 documents, as per Exs.P-1 to P-17. The respondent-Insurance Company has



examined two witnesses as RW-1 and RW-2 and marked Exs.R-1 to Ex.R-4.

9. 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	50,000
Medical expenses	10,545
Food and extra nourishment and medical attendant	12,800
Towards conveyance	10,000
Loss of income during treatment	28,000
Loss of future earning capacity	4,53,600
Deprivation of future amenities	10,000
Towards future medical expenses	10,000
Total	5,84,945

10. Heard the arguments.

11. 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.

12. Learned counsel for respondent No.2, owner of the vehicle contends that at the time of the accident, son of the owner of the vehicle by name Mahadeve Gowda was driving the tractor and trailer and immediately after the accident people gathered at the spot. Son of respondent No.2 apprehending that they may manhandle him he escaped from the spot of the accident. Someone had given name of Girija Singh as driver of said tractor. The police have registered case against him alleging that he was driving tractor. Therefore, due to some misrepresentation police believed that Girija Singh was driving the said vehicle. The said Mahadeve Gowda son of the owner of the vehicle was having a valid and effective driving license. Despite these facts were pleaded before the Tribunal, it has not considered the same. Therefore, prays to direct the insurer to pay the compensation.



13. Learned counsel for the insurer contends that undisputedly driver of the vehicle whose name is shown in the charge sheet was not having a valid and effective driving license. There are no materials to prove that the said Mahadeve Gowda son of the owner was driving the said vehicle. The alleged driver of the vehicle did not challenge the charge sheet filed against him. All these facts clearly indicates that, just to fasten the liability on the insurer respondent No.1 -owner is contending that driver of the Tribunal was Mahadeve Gowda and not Girija Singh. With these reasons, prayed to reject the contention of owner of the vehicle. In reply learned counsel for the claimant contends that undisputedly the said vehicle was insured with respondent No.1 and it was a package policy. Therefore, even though the driver of the offending vehicle was not holding a valid and effective driving license, as per the law laid down by the Hon'ble Apex Court as well as this Court the insurer has to pay compensation to the third party and it may be at liberty to recover the same from the owner of the vehicle. On these grounds, he prayed to direct respondent



No.1 to pay the compensation and recover it from the owner of the vehicle.

14. Fact of the accident, injuries sustained by the claimant, his age, multiplier applicable are not seriously disputed. Therefore, there is no need to reconsider the same. The Tribunal after appreciating the evidence on record, held that the accident occurred due to the negligence of driver of the tractor, which is not in dispute by either side. Hence, there is no need to reconsider the same.

15. Undisputedly, the age of the claimant was 21 years at the time of accident. Therefore, the Tribunal has rightly taken multiplier as '18'. The claimant contended that income of the claimant was Rs.25,000/- per month. The claimant was not able to substantiate it. Therefore, the Tribunal has assessed the notional income of the claimant as Rs.14,000/- per month relying on the chart prepared by the Karnataka State Legal Services Authority. It does not call for interference.



16. The main grievance of learned counsel for the appellant-claimant is that disability assessed by the Tribunal is on the lower side. Learned counsel for the appellant took the Court through the evidence of PW-2 and PW-3. PW-2 stated that claimant has suffered permanent disability at 10% and according to evidence of PW-3, the total disability was 19%. Therefore, prays to assess the disability properly.

17. The Tribunal in this case has discussed in detail about the evidence of PW-2 and PW-3. The fracture of both bones of right leg and fracture mandible and parasymphysis left side, which is considered for the assessment of disability. It may not affect the earning capacity but it may cause inconvenience to the victim of the accident while chewing food. According to the claimant, he was OPPO promoter, it appears to be an executive work moving from one place to another place to promote sales. The disability would affect his earning capacity because of the restrictions in movement as stated by PW-2 and PW-3. However, the Tribunal has considered the same and assessed the disability as 15%, it does not call for any interference.



18. Looking at the amount of compensation awarded by the Tribunal, on some of the heads it is on the lower side. On re-appreciation of the materials available on record, the claimant is entitled for following amount of compensation:

Particulars	Amount in Rs.
Pain and suffering	70,000
Medical expenses	10,545
Special diet, conveyance, attendant charges	30,000
Loss of income during laid up period (Rs.14,000x2)	28,000
Loss of income due to permanent disability (Rs.14,000x 12 x 18 x15%)	4,53,600
Future medical expenses	25,000
Loss of amenities	40,000
Total	6,57,145
Amount awarded by the Tribunal	5,84,945
Enhancement-	72,200
Rounded off -	Rs.73,000/-

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



20. Undisputedly, the vehicle belonging to respondent No. 2 was involved in the accident. The claimant has produced charge sheet and its enclosures. The said charge sheet reveals that only Girija Singh was the driver of the vehicle. According to the petitioner, the said Girija Singh was not the driver of the vehicle, Mahadeve Gowda was the driver of the vehicle. It is worth to note that the police recorded the statement of witness and witness have stated that the said Girija Singh was driving the vehicle. The charge sheet and enclosures were neither challenged by the Girija Singh nor the respondent. It is true that, sometime due to some confusion immediately after the accident, people assembled at the spot may take the law into their hands and assault the driver of the vehicle. However, there are no materials to show that, after the accident, the said Mahadeve Gowda went to the police station and reported that he was the driver of the said vehicle at the time of the accident. Looking at the facts of the case, it appears that only after filing of the petition by the claimant before the Tribunal, a new case was made out that one Mahadeve



Gowda was the driver of the offending vehicle and not Girija Singh. The said contention is not acceptable.

21. Undisputedly, the said Girija Singh was not holding a valid and effective driving license and he was driving the vehicle on the route, which was not permitted. Therefore, there is violation of terms and conditions of policy of insurance. In the case of **Pappu Deo Yadav Vs. Naresh Kumar and Ors¹** and full bench decision of this Court in the case of **New India Assurance Company Limited Vs. Yellavva and another²**, it is held by Hon'ble Apex Court as well as this Court that in case of driving of the vehicle by a person not holding a driving license then the insured who has sold the policy of insurance shall pay the compensation and it is at liberty to recover it from the owner of the vehicle. The said rule of pay and recover is applicable to the facts and circumstances of the present case. Therefore, the said award requires modification.

¹ AIR 2020 SC 4424

² 2020 ACJ 2560



22. For the aforesaid discussion, I proceed to pass the following:

ORDER

- i. MFA.No.5001/2022 and MFA.No.4851/2022 are ***allowed in part.***
- ii. The impugned judgment and award dated 30.03.2022 passed by the I Addl.Small Causes Judge and MACT, Bengaluru in MVC.No.291/2020 is modified;
- iii. The claimant is entitled to enhancement of Rs.73,000/- with interest @ 6% per annum from the date of the petition till its realization.
- iv. Respondent No.1 - Insurer shall pay the said amount of compensation within a period of six weeks and it is at liberty to recover the same from the owner of the vehicle in a proper proceedings initiated on the basis of the award passed in this case.
- v. Amount enhanced is marginal, therefore, entire enhanced amount is ordered to be



HC-KAR

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released in favour of the claimant 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

AG
List No.: 1 Sl No.: 37