



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. 5961 OF 2022 (MV-I)

BETWEEN:

SRI. NITHYANANDA N S
AGED ABOUT 30 YEARS
S/O B. SHIVARAJU
R/AT NO.42, 43, GROUND FLOOR
VI CROSS, ADASHAVANI LAYOUT
DASARAHALLI,
BENGLAURU-560 027.

...APPELLANT

(BY SRI. NAGARAJA REDDY D., ADVOCATE)

AND:

1. SRI. MASTHAPPA A.A,
MAJOR,
S/O ADPULLO
R/AT NO.98, 1ST MAIN ROAD
ANJANAPPA LAYOUT
KOTHNUR AND POST
BENGLAURU-560 077.
2. UNITED INDIA INSURANCE CO. LTD.,
REGIONAL OFFICE ,
MOTOR THIRD PARTY CLAIMS HUB,
5TH AND 6TH FLOORS, KRISHI BHAVAN
HUDSON CIRCLE, NRUPATHUNGA ROAD
BENGLAURU-560 001
BY ITS MANAGER.

...RESPONDENTS

(BY SRI. K NAGARAJAIAH., ADVOCATE FOR R2;
V/O DATED 14.2.20225, NOTICE TO R1 IS DISPENSED
WITH)

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KARNATAKA



THIS MFA IS FILED U/S 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 24.04.2019 IN MVC NO.4204/2017 ON THE FILE OF THE XXII ADDITIONAL SMALL CAUSES JUDGE, XX ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AND MACT, BENGALURU (SCCH-24), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION AND ETC.,

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 is a claimant's appeal against the judgment and award dated 24.04.2019 passed in MVC No.4204/2017 by the 12th Additional Small Causes Judge and XX Addl.Chief Metropolitan Magistrate and MACT, Bengaluru, (for Short 'the Tribunal').

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 learned counsel for the appellant has furnished the certified copy of the records from the trial Court. Therefore, without calling the trial court records, the matter is reconsidered. Respondent No.2 has no objection to the same.

5. The brief facts of the case are that, on 26.06.2017, at about 9.15 a.m, the petitioner was riding a motor cycle bearing registration No.KA-45-W-0734 and when he reached near Sai Traders, Kashi Vishwanath layout, Kempapura main road, Bengaluru, he met with accident by a motor cycle bearing registration No.KA-03-EM-7137 due to rash and negligent riding of the same by its rider. As a result, he sustained grievous injuries. He took treatment as in patient and under went surgery. He was aged about 25 years at the time of the accident and was serving as site engineer in a private limited company and earning Rs.30,000/- per month. He has suffered permanent disability because of which he left the job. With these reasons, prayed to award compensation.



6. The respondent No.1 was the insurer and respondent No.2 was the owner of the offending motorcycle. Respondent No.1 remained *ex parte* before the Tribunal. Respondent No.2 filed its written statement denying the petition averments 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 and recorded the evidence of both the parties.

8. The claimant to prove his case, examined 4 witnesses as PW-1 to PW-4 and marked 38 documents, as per Exs.P-1 to P-38. The respondent-Insurance Company has examined witnesses as RW-1 to RW-3 and marked Exs.R-1 to R-15.

9. The Tribunal after hearing both parties and appreciating the evidence available on record held that accident occurred due to negligence of rider of the



offending motor cycle and awarded the following amount of compensation:

Particulars	Amount in Rs.
Pain and suffering	40,000
Food, nourishment, conveyance and attendant charges	15,000
Medical expenses	10,488
Loss of amenities of life and disability	1,50,000
Total	Rs.2,15,488

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

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

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.1-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 and prayed for dismissal of the appeal.

13. The Tribunal has not awarded compensation under the head loss of future earning capacity due to permanent disability on the ground that the claimant voluntarily left his job and not due to the injury sustained in the accident. Probably on that basis, it has awarded more amount of compensation under the head loss of amenities. Being dissatisfied with the award passed by the Tribunal, claimant preferred this appeal.

14. The fact of the accident and the injuries sustained by the claimant are not in dispute; therefore, there is no need to reconsider them. The claimant has produced his appointment letters, bank statements, and a letter issued by the company dated 04.12.2017 (Ex. P22), which show that he left his job



about six years prior to filing the claim petition. He was appointed as a Site Engineer with a salary of Rs. 30,000/-, and the Tribunal has accepted this fact. However, since he was no longer employed at the time of the petition, the Tribunal did not consider this certificate for the purpose of assessing compensation.

15. The learned counsel for the appellant contends that due to the injury sustained in the incident i.e, fracture of the right ankle, the claimant found it difficult to perform the duties of a supervisor or site engineer. Owing to this inability, he resigned from the said post. The Tribunal has probably taken this into account and therefore denied compensation under the head 'loss of future earning capacity due to permanent disability.' Otherwise, the Tribunal has noted the claimant's disability based on the evidence of PW2. If the claimant voluntarily resigned from the post, he may not be entitled to compensation on the basis that he has suffered 100% permanent disability.

16. Learned advocate for appellant is also not claiming to calculate the compensation on that basis. He



fairly admits that as per evidence of PW2, he is suffering from physical disability of 14% and only on that basis, compensation may be assessed. In view of these reasons, the findings of the Tribunal that he voluntarily resigned from the Job, therefore, he is not entitled for compensation under the head 'loss of future earning capacity due to permanent disability' is not in accordance with the law.

17. It is the evidence of PW-2, Dr. B.N.Nagaraj, that claimant has sustained fractures of right ankle medial malleolus fracture dislocation, lacerated wound over right lateral malleolus and other injuries. The said fracture was united. Looking at the age of the claimant, and the nature of his work etc., the disability stated by PW2 is taken as 10% to the whole body. The respondent's contention is that the evidence of PW-2 should not be considered because he was not the treating doctor cannot be accepted, and his evidence cannot be discarded on that ground. It is settled principle of law that in such cases, the evidence of such a doctor has to be assessed carefully.



18. As per the wound certificate submitted along with the charge sheet, also disclose one and the same injuries as stated by PW-2. PW.2 has not given any additional injuries suffered by the claimant. Therefore his disability can be considered as 10% to the whole body as accepted by the Tribunal. Income of the claimant was claimed to be Rs.30,000/- per month. Looking to nature of work, disability, has affected his earning capacity. Consequently, he was unable to continue his duties and left his job. Claimant was aged about 25 years at the time of accident. As per the judgment of the Hon'ble Apex Court in the case of *Sarla Verma vs. Delhi Transport Co. Ltd.*,¹ the multiplier applicable in the case in hand is '18'. On that basis, the compensation under the head 'loss of future earning capacity due to permanent disability' is assessed.

19. The Tribunal has awarded more amount of compensation under the head loss of amenities. Since no amount of compensation was awarded under the head loss of

¹ AIR 2009 SC 3104



income due to permanent disability. In view of the awarding of the said amount, this Court has to recalculate the amount of compensation awarded under the head loss of amenities. The claimant has not produced any records to show that he lost his earnings during laid up period. Therefore, he is not entitled for compensation under the head loss of income during laid up period.

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

Particulars	Amount in Rs.
Pain and suffering	40,000
Medical expenses	10,488
Attendant expenses, special diet and conveyance charges	25,000
Loss of income due to permanent disability (Rs.30,000 x 12 x 18 X 10%)	6,48,000
Loss of amenities	50,000
<i>Total</i>	<i>7,73,488</i>
<i>Amount awarded by the Tribunal</i>	<i>2,15,488</i>
<i>Enhancement-</i>	<i>5,58,000</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.

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

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

ORDER

- i) The Appeal is ***allowed in part.***
- ii) The judgment and award dated 24.04.2019 passed by the XXII Additional Small Causes Judge and XX Additional Chief Metropolitan Magistrate and MACT in MVC No.4204/2017 stands modified;
- iii) The claimant is entitled to enhanced compensation of Rs.5,58,000/- with interest at the rate of 6% p.a., from the date of petition till its realization, excluding the delayed period of 409 days in filing the appeal
- 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