

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF DECEMBER , 2025

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO. 8615 OF 2014 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 3923 OF 2014 (MV-I)

IN MFA No. 8615/2014:

BETWEEN:

DR. VIJAYA SARATHI
S/O P. VENKUREDDY
AGED ABOUT 35 YEARS,
R/O SHREYA NILAYA, 14TH CROSS,
1ST PHASE, I MAIN,
CHANDRA LAYOUT,
BENGALURU-560 040.

...APPELLANT

(BY SRI. B.M. MOHAN KUMAR, ADVOCATE)

AND:

1. SRI MAHESHA
S/O NANJAPPA,
MAJOR, NO.64/A, I MAIN ROAD,
2ND CROSS, SANJEEVININAGAR,
NAGARABHAVI,
BANGALORE-560 072.
2. TATA AIG GENERAL
INSURANCE COMPANY LTD
2ND FLOOR, JP & DEVI JAMBUKESWAR ARCADE
NO.69, MILLERS ROAD,
BENGALURU-560 052.
3. R.S. KRISHNAMURTHY
S/O SNAJEEVACHAR,
AGED ABOUT 56 YEARS,

RAMOHALLI, KENGERI HOBLI,
BANGALORE-60

...RESPONDENTS

(BY SRI H.S. LINGARAJU, ADVOCATE FOR R2;
SRI. M.G. RAVISHA, ADVOCATE FOR R3;
V/O DATED 06.06.2018 – NOTICE TO R1
IS DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 05.04.2014 PASSED IN MVC
NO.3045/2012 ON THE FILE OF THE XXIV ADDITIONAL SMALL
CAUSE JUDGE, AND XXII ACMM, MACT, BENGALURU, PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA NO. 3923/2014:

BETWEEN:

TATA AIG GENERAL INSURANCE CO. LTD.,
REGIONAL OFFICE,
J.P. & DEVI JAMBUKESHWAR ARCADE,
II FLOOR, NO.69, MILLERS ROAD,
BANGALORE-560 052,
BY ITS MANAGER (CLAIMS).

...APPELLANT

(BY SRI. LINGARAJ H.S., ADVOCATE)

AND:

1. DR VIJAYASARATHI
S/O P. VENKUREDDY,
AGED ABOUT 34 YEARS
R/O 'SHREYA NILAYA', 14TH CROSS,
1ST PHASE, 1ST MAIN, CHANDRA LAYOUT,
BANGALORE-560 040.
2. MAHESH, MAJOR,
S/O NANJAPPA,
R/A NO.64/A, 1ST MAIN ROAD,
2ND CROSS, SANJEEVININAGAR,

NAGARABHAVI,
BANGALORE-560 072.

3. R.S. KRISHNAMURTHY
NOW AGED ABOUT 56 YEARS,
S/O SANJEEVACHAR,
R/A RAMOHALLI, KENGERI HOBLI,
BANGALORE-560 060.

...RESPONDENTS

(BY SRI. B.M. MOHAN KUMAR, ADVOCATE FOR R1;
SRI. M.G. RAVISHA, ADVOCATE FOR R3;
NOTICE TO R2 IS HELD SUFFICIENT V/O
DATED 5.6.2018)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 5.04.2014 PASSED IN
MVC NO.3045/2012 ON THE FILE OF XXII A.C.M.M & XXIV
A.S.C.J, MACT, BANGALORE, AWARDED COMPENSATION
OF RS.5,47,500 TO THE PETITIONER ALONG WITH
INTEREST ON RS.5,27,000/- @ 6% P.A FROM THE DATE OF
PETITION TILL DEPOSIT.

THESE APPEALS HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT ON 26.11.2025 AND COMING ON FOR
PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED
THEREIN AS UNDER:

CORAM: HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT

MFA No.8615/2014 is by the appellant/claimant
seeking for enhancement of compensation arising out of
judgment and award dated 05.04.2014 in MVC

No.3045/2012, passed by the Motor Accident Claims Tribunal, XXIV Additional Small Causes Judge, Bengaluru (for short, 'Tribunal'). MFA No.3923/2014 is filed by the Insurance Company questioning the liability fastened on it.

2. The parties are referred to as per their ranking before the Tribunal for easy reference.

3. The brief facts of the case are that:-

On 10.08.2011 at about 2.30 p.m., the petitioner was returning to his home on Hero Honda Splendor Bike bearing Reg.No.AP-26-E-3293 on the left side of service road, BCC Layout, in front of Manjunatha Auto Work shop, Byatarayanapura, at that time, a Bajaj RE LPG Auto bearing Reg.No.KA-05-D-4448 came from opposite direction in a rash and negligent manner and dashed to the petitioner. Due to which, he sustained grievous injuries and was admitted to Vinayaka Hospital and later was shifted to Namratha Orthopaedic center. Hence, filed claim petition under Section 166 of M.V. Act, 1989 seeking for compensation of Rs.15,00,000/-.

4. After issuance of notice, the respondent Nos.1 & 2 have appeared through their counsel and filed written statement. Respondent No.1/owner of the offending vehicle remained absent and was placed *ex-parte*.

5. In order to substantiate the case of the petitioner, the petitioner got himself examined as PW-1 and examined treated Doctor as PW-2 and got marked documents at Exs.P1 to P15. On the other hand, respondent No.3 has examined himself as RW-1 and got marked documents at Exs.R1 to R3.

6. On the basis of the pleadings of the parties, the Tribunal framed the issues and held that the Insurance Company and the owner of the offending vehicle are jointly and severally liable to pay a total compensation of Rs.5,47,500/- to the petitioner along with interest on Rs.5,27,000/- at the rate of 6% per annum from the date of petition till realization.

7. Learned counsel for the appellant/claimant submits that as per Ex.P.15 – wound certificate, claimant

has sustained lacerated wound present over the right shoulder, blunt injury to the nose, comminuted intra-articular fracture of distal radius bone with displacement right forearm and abrasion present over the forehead and right temporal region. The injuries are simple and grievous in nature. As per Ex.P.8 – two discharge summaries from Namratha Orthopaedic center, petitioner has sustained comminuted fracture of right distal radius and surgery was conducted, closed reduction and external fixator, ORIF ELLIS, T-plate with bone as the fracture is non union right distal radius fracture and after surgery the fracture is non union and bone grafting was done and petitioner has been treated as an inpatient for 10 days. The Tribunal has not properly considered the case of the claimant and awarded meager compensation under all heads, which require enhancement. Accordingly, sought to allow the appeal and enhance compensation by modifying the judgment and award passed by the Tribunal.

8. Learned counsel appearing for the Insurance Company submits that the Tribunal has failed to appreciate the evidence and defence of the Insurance Company in right perspective and it has failed in not considering the genesis of the accident, notwithstanding any contra evidence and it was a fit case to determine the contributory negligence on the part of the claimant for occurrence of the said accident. He further submits that Tribunal erred in taking exaggerate percentage of disability by considering the evidence of the PW-2 and has awarded compensation under the head 'loss of future earnings', which is unjust, unreasonable and contrary to the principles of law. The Tribunal has erred in taking excessive income. Hence, prays to allow the appeal and to reduce the compensation awarded by the Tribunal.

9. Heard the learned counsel appearing for the parties and perused entire material on record.

10. It is not in dispute that appellant has sustained injuries stated *supra*. The claimant has examined the

treated Doctor as PW-2, who has stated that petitioner has suffered 15% permanent disability to the whole and 40% permanent disability for right upper arm, 10% for whole body conversion and 5% for dominant hand. The Tribunal has rightly assessed the disability of the claimant at 5% to the whole body. The Tribunal has taken income of the claimant at Rs.25,000/- per month. To prove the income, the claimant has produced Ex.P.12 – income tax paid for the year 2011-12, which reveals that the claimant was earning total income at Rs.28,198/- per month. Hence, the income of the claimant is taken at Rs.28,198/- per month. The appellant was aged about 34 years at the time of accident. Hence, multiplier applicable is '16'. Hence, a sum of **Rs.2,70,700/-** (28,198 x 12 x 16 x 5%) is awarded under the head 'loss of future income due to disability'.

11. In view of the accidental injuries, the claimant would have taken rest atleast for a period of 2½ months. Therefore, by taking income at Rs.28,198/- per month and calculating the laid up period for 2½ months, the claimant

is entitled for a sum of Rs.70,495/- (Rs.28,198 x 2.5) rounded off to **Rs.70,500/-**, under the head 'loss of income during laid up period'.

12. Under other conventional heads, the compensation awarded by the Tribunal is just and reasonable and does not call for any interference.

13. In all, the total compensation re-determined by this Court under various heads is as follows:

1.	Pain and Sufferings	Rs.	40,000/-
2.	Attendant and incidental charges	Rs.	15,000/-
3.	Medical Expenses	Rs.	1,40,000/-
4.	Loss of amenities	Rs.	30,000/-
5.	Loss of income during laid up period	Rs.	70,500/-
6.	Loss of future income due to disability	Rs.	2,70,700/-
7.	Future medical expenses	Rs.	20,000/-
	TOTAL	Rs.	5,86,200/-

14. On re-determination, the claimant is entitled for total compensation of **Rs.5,86,200/-** as against Rs.5,47,500/- along with interest at the rate of 6% per

annum from the date of petition till realization. Insurance Company is directed to deposit the compensation amount within eight weeks from the date of filing of the petition till realization.

15. After going through the entire material on record, this Court did not find any merits to allow the appeal filed by the Insurance Company and hence, the same is liable to be dismissed.

16. Accordingly, I proceed to pass the following:

ORDER

- i. MFA No.8615/2014 filed by the claimant is ***allowed-in-part.***
- ii. MFA No.3923/2014 filed by the Insurance Company is ***dismissed.***
- iii. The judgment and award passed by the Tribunal in MVC No.3045/2012 dated 05.04.2014 by the Motor Accident Claims Tribunal, XXIV Additional Small Causes Judge at Bengaluru, is hereby modified holding that the claimant is entitled for total compensation of **Rs.5,86,200/-** along with interest @ 6% p.a. from the date of petition till its realization.

- iv. The compensation amount along with accrued interest if any, shall be deposited by the Insurance Company, within eight weeks from the date of filing of the petition till realization;
- v. Amount in deposit along with accrued interest, if any shall be transmitted to the Tribunal.
- vi. Registry is directed to transmit the TCR along with copy of this judgment to the Tribunal forthwith.
- vii. No order as to costs.

Sd/-
(DR.K.MANMADHA RAO)
JUDGE

MH/-