



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 8413 OF 2022 (MV-I)

BETWEEN:

MR. ENNIPALLI GANGADHAR
@ D. GANGADHAR
S/O ENNIPALLI MALLESH,
AGED ABOUT 35 YEARS,
R/AT NO.E-205
KAMMAGONDANAHALLI
KAVAL PRADESH,
11TH MAIN ROAD,
KAMMAGONDANAHALLI
BENGALURU-560 015.

PERMANENT ADDRESS
10-80, SIDDARDHANAGAR
VINJAMUR MANDALAMM
VINJAMUR NELLORE
ANDHRA PRADESH-524 228.

...APPELLANT

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

AND:

1. M/S BAJAJ ALLIANCE
GENERAL INSURANCE CO. LTD.,
T. GOLDEN HEIGHTS
4TH FLOOR, NO.1/2
59TH 'C' CROSS, 4TH M BLOCK
RAJAJINAGAR
BENGALURU-560 010.
BY ITS MANAGER.

Digitally signed
by

ANNAPURNA G

Location: HIGH
COURT OF
KARNATAKA



2. MRS. RAJESWARI
W/O RAJU
R/AT HAREKYATHANHALLI VILLAGE
MAKALLI POST, DASANAPURA HOBLI
BENGALURU NORTH,
BENGALURU RURAL,
BENGALURU-562 123.

...RESPONDENTS

(BY SRI. JANARDHAN REDDY., ADVOCATE FOR R1;
R2 IS SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 19.09.2022 PASSED IN MVC NO.3493/2021 ON THE FILE OF THE XIV ADDITIONAL SCJ AND ACMM AND MEMBER, MACT, BENGALURU SCCH-10, 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 appeal is filed by the claimant challenging the judgment and award dated 19.09.2022 passed by the XIV Addl.Small Cause Judge and MACT, Bengaluru (for short 'Tribunal'), in MVC No.3493/2021, seeking enhancement of compensation.



2. Though appeal is slated for admission, with consent of learned advocate 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 brief facts of the case are that, on 02.07.2021 at about 11.30 a.m., while the petitioner was proceeding on a motorcycle bearing registration No.KA-04-JU-3697 along with his friend, he met with a accident at KTM showroom, 8th mile, Tumakuru road, due to rash and negligent riding of a TVS scooter bearing registration No.KA-52-S-3553. As a result, the claimant sustained fracture of Supra Condylar right humerus fracture with intra condylar extension and other grievous injuries. He took treatment as an in-patient for 5 days. He underwent surgery. 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.

5. The respondent No.1 was the insurer and respondent No.2 was the owner of the offending motorcycle. Respondent No.2 remained *ex parte* before the Tribunal. Respondent No.1 in its written statement denied the petition averments and also denied its liability to pay the compensation. With these reasons, it prayed to dismiss the claim petition.

6. From the rival contentions of the parties, the Tribunal framed necessary issues and recorded the evidence.

7. The claimant to prove his case, examined two witnesses as PW-1 and PW-2 and marked 17 documents, as per Exs.P-1 to P-17. The respondent-Insurance Company has examined one witness as RW-1 and marked Exs.R-1 to R-5.



8. 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.
Loss of income on account of disability	1,99,680
Pain and sufferings	25,000
Loss of amenities	5,000
Nourishment, conveyance and attendant charges	5,000
Loss of income during laid up period and rest period	13,000
Medical bills	29,605
Transportation charges	10,000
Future medical bills	15,000
<i>Total</i>	Rs.3,17,285/-

9. The Tribunal by impugned judgment held that rider of the offending motorcycle was not holding a valid and effective driving license, therefore, directed the insurer to pay the compensation and recover it from the owner of the vehicle.

10. Heard the arguments of the learned counsel appearing for the claimant as well as the respondent No.1-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. Fact of the accident is not in dispute. The Tribunal after appreciating the evidence on record, held that the accident occurred due to the negligence of driver of the motor cycle, which is not in dispute by either side. Hence, there is no need to reconsider the same.



14. On perusal of the materials available on record, the contention of the appellant is tenable. The claimant was aged about 34 years at the time of accident and it was accepted by the Tribunal. The multiplier applicable in this case is '16.'

15. Claimant has contended that his earning was Rs.30,000/- per month and he was unable to substantiate the same. Therefore, Tribunal has assessed the income as Rs.13,000/- per month. When compared to the chart of notional income, the said amount is on the lower side. Following the chart prepared by the Karnataka State Legal Services Committee, the claimant's income is assessed at Rs.15,000/- per month.

16. PW-2 has stated that, claimant has suffered permanent disability of 38% to the right upper limb and 19% to the whole body. Claimant was said to be a painter and he has sustained permanent disability to the right hand, mostly that is used for painting work. Therefore,



disability taken by the Tribunal is on the lower side. When compared to the whole body, the disability shall be $1/3^{\text{rd}}$. Hence, it is around 12% to the whole body. On the basis of the above said factors, the compensation has to be recalculated under said the head loss of future earning capacity due to permanent disability.

17. Looking at the nature of work of the petitioner and nature of the injuries suffered by him, the amount of compensation awarded under other heads are also lower side. The claimant sustained a fracture and taken treatment for 5 days as inpatient and underwent surgery. During treatment he might not be in a position to work at least for a period of 3 to 4 months and lost his income. While he was taking treatment someone must have attended him to do his regular work. For these reasons, claimant must have spent income, which requires to be compensated.



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

Particulars	Amount in Rs.
Loss of income on account of disability (15,000x12x16x12%)	3,45,600
Pain and sufferings	40,000
Loss of amenities	50,000
Nourishment, conveyance and attendant charges	25,000
Loss of income during laid up period and rest period(15,000x3)	45,000
Medical bills	29,605
Future medical expenses	20,000
Total	5,55,205
Amount awarded by the Tribunal	3,17,285
Enhancement	2,37,920
Rounded off	2,38,000

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

20. The Tribunal held that respondent No.1 shall deposit the said amount and it is at liberty to recover the same from the owner of the vehicle, since owner had no valid license to ride the vehicle.



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

ORDER

- i) The Appeal is ***allowed in part.***
- ii) The judgment and award dated 19.09.2022 passed by the XIV Addl.Small Cause Judge, Member, MACT, Bengaluru(SCCH-10) in MVC No.3493/2021, stands modified;
- iii) The claimant is entitled to enhanced compensation of Rs.2,38,000/- with interest at the rate of 6% p.a., from the date of petition till its realization excluding the interest awarded towards future medical expenses.
- iv) The respondent No.1- Insurance Company shall deposit the amount within a period of six weeks from the date of award and it is at liberty to recover the same from the owner of the vehicle in the execution proceedings initiated on the basis of the award passed in the case.



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- v) The remaining portion of the award of the Tribunal shall remain unaltered.
- vi) Draw award accordingly.

Sd/-
(UMESH M ADIGA)
JUDGE

AG
List No.: 1 SI No.: 23