



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 7319 OF 2023 (MV-I)

BETWEEN:

1. SRI RAFIQ AHAMAD
S/O AMEER
AGED ABOUT 57 YEARS
DRIVER AT IRRIGATION DEPT
R/O 'C' 21,
IRRIGATION DEPARTMENT
QUARTERS, BRP
SHIVAMOGGA DISTRICT – 577 221.

...APPELLANT

Digitally signed
by
ANNAPURNA G (BY SRI. M V MAHESWARAPPA, ADVOCATE)
Location: HIGH
COURT OF
KARNATAKA

AND:

1. SRI.KARTHIKA,
S/O SELVAM
AGED ABOUT 22 YEARS
R/O 2ND CROSS, GOPISHETTY KOPPA,
SHIVAMOGA CITY
SHIVAMOGGA – 577 201.



2. THE BRANCH MANAGER
IFFCO TOKIO GENERAL
INSURANCE CO LTD ,
OPP. SHRUTHI MOTORS,
SHANKAR MUTT ROAD,
SHIVAMOGGA CITY,
SHIVAMOGGA – 577 201.

...RESPONDENTS

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

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 12.09.2023 PASSED IN MVC
NO.381/2022 ON THE FILE OF THE I ADDITIONAL SENIOR
CIVIL JUDGE AND CJM AND MOTOR ACCIDENTS CLAIMS
TRIBUNAL AT SHIVAMOGGA, 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

1. The present appeal is filed by the appellant/claimant challenging the judgment and award dated 12.09.2023 in MVC.No.381/2022 passed by the 1st Additional Senior Civil Judge and CJM and MACT, at Shivamogga, for seeking enhancement of compensation.
2. Though the appeal is slated for hearing on admission, with consent of learned advocates appearing for both sides, it is taken up for final disposal.
3. For the sake of convenience, the parties are referred to as per their rankings before the Tribunal.
4. The brief facts of the case are that, on 23.02.2022, the petitioner was travelling on a motorcycle bearing registration No.KA-14-TR-7103 from Gonibidu to BRP Shankarghatta Grama. On the way, he met with an accident due to the rash and negligent driving of



another motorcycle bearing registration No.KA-14-EW-4469 (for short, 'Offending Vehicle'). As a result, the claimant sustained fractures and other injuries. He has suffered permanent disability. With these reasons, he prays to award compensation.

5. The fact of the accident is not in serious dispute. Similarly, injuries sustained by the claimant are also not disputed. This appeal is filed with two contentions that, the amount of compensation awarded is on the lower side and secondly, the Tribunal exonerated the insurer from its liability to pay the compensation on the ground that the rider of the offending vehicle did not have a valid and effective driving licence. The said finding is incorrect. In view of the law laid down by this Court as well as Hon'ble Apex Court, the insurer is liable to pay compensation to the third party with liberty to recover it from the owner of the vehicle.



6. The learned counsel for respondent No.2 supports the impugned judgment and prays to dismiss the appeal.
7. Heard the arguments and perused the records.
8. The Tribunal has considered the nature of injuries, treatment taken etc., and awarded the following amount of compensation:

Pain and suffering	50,000.00
Loss of laid up period	Nil
Medical Expenditure	1,28,000.00
Future Medical Expenditure	25,000.00
Loss of Future Income	Nil
Towards diet and conveyance	20,000.00
Loss of amenities	30,000.00
TOTAL	2,53,000.00

9. The claimant is a Government Servant. Therefore, no amount of compensation is awarded under the head, loss of future earning capacity due to



permanent disability, as well as loss of income during the laid-up period.

10. The claimant sustained a fracture of the right iliac bone and other injuries. Of course, he has not examined the medical practitioner who treated him to assess the permanent disability. The fracture of the iliac bone, certainly, will cause inconvenience in the day-to-day functioning of the petitioner. It may cause him difficulty to sit for a long period, stand, walk etc. According to the claimant, due to the said injuries, he was unable to do his regular work. He also sustained a fracture of the right foot according to his evidence.
11. Considering these facts as well as less amount of compensation under the head of Loss of Amenities, the claimant is entitled to a global enhancement of Rs.50,000/- on all the heads. He is also entitled to interest on the said amount at the rate of 6% per



annum from the date of the claim petition till its realisation.

12. Undisputedly, the rider of the offending vehicle had no valid licence at the time of the accident. The full bench of this Court, in the case of ***New India Assurance Company Limited vs. Yellavva and another***¹ relying on the judgment of the Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Swaran Singh and Others***² held that if the rider of the offending vehicle had no driving licence, then the insurer has to satisfy third-party liability and it is at liberty to recover the same from the owner of the vehicle. The same principle is also applicable to the facts of the present case.

13. For the aforesaid discussions, I proceed to pass the following:

¹ 2020 ACJ 2560

² (2004) 3 SCC 297



ORDER

- i. The appeal is ***allowed-in-part***.
- ii. The impugned judgment and award dated 12.09.2023 in MVC.No.381/2022 passed by the 1st Additional Senior Civil Judge and CJM and MACT, at Shivamogga, is hereby modified;
- iii. The appellant/claimant is entitled to enhanced global compensation of Rs.50,000/- along with interest at the rate of 6% per annum from the date of petition till realization.
- iv. Respondent No.2 is liable to pay the above said enhanced amount of compensation.
- v. Undisputedly, the offending vehicle was insured respondent No.2. Therefore, respondent No.2 is liable to pay the compensation awarded by the Tribunal as well as enhanced by this Court, with a



liberty to recover the same from owner of the vehicle in an appropriate proceedings.

vi. Amount enhanced is marginal, therefore, entire enhanced amount is ordered to be released in favour of the claimant on due identification.

vii. 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

UN
List No.: 1 Sl No.: 33