



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 8389 OF 2023 (MV-I)

BETWEEN:

SRI DHANUSH
S/O SRI T S RAMESH,
AGED ABOUT 22 YEARS,
R/AT NO.437, 6TH CROSS,
1ST MAIN ROAD, GOKULA
1ST STAGE, YESHWANTHAPURA,
BENGALURU - 560 022.

...APPELLANT

(BY SRI. M V MAHESWARAPPA., ADVOCATE)

AND:

1. THE MANAGER
IFFCO TOKIO GEN INS CO LTD.,
MOTOR CLAIMS HUB,
NO. 141, 5TH FLOOR,
SRI SHANTHI TOWERS,
NO.141, 3RD MAIN ROAD,
EAST OF NGEF LAYOUT,
KASTURI NAGAR,
BENGALURU - 560 043.

2. SRI MUNISHAMAPPA,
MAJOR IN AGE,
NO.405, KAKOLU ROAD,
RAJANUKUNTE,
BENGALURU NORTH,
BENGALURU - 560 064.

...RESPONDENTS

(BY SRI. PRADEEP B., ADVOCATE FOR R1;
V/O DTD 11/01/24, NOTICE TO R2 IS D/W)

Digitally signed by
ANNAPURNA G
Location: HIGH
COURT OF
KARNATAKA



THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 10.10.2023 PASSED IN MVC NO.3198/2022 ON THE FILE OF THE II ADDITIONAL JUDGE AND ACMM, COURT OF SMALL CAUSES, BENGALURU SCCH-13, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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 being aggrieved by the judgment and award dated 10th October 2023, passed by the II Additional Judge and ACMM, Member MACT, Court of Small Causes, Bengaluru, SCCH-13, (for short `Tribunal'), in MVC No.3198/2022, seeking enhancement of compensation.

Though this appeal is listed for admission, with the consent of both the parties it is taken up for final disposal.

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

3. The brief facts of the case are that, on 24.04.2022, at about 10.45 a.m., the claimant met with an accident by involvement of a lorry bearing registration No.KA-01-AE-3078



at Doddaballapur-Bengaluru main road, Rajanukunte Village, Hesarghatta Hobli. In the said incident, the claimant sustained comminuted fracture of intercondylar of left distal humerus with bone loss and bilateral condyle of symphysis mandible along with other simple injuries. He has suffered permanent disability. With these reasons, prayed to award compensation.

4. Respondent No.1-insurer denied the petition averments and prayed to dismiss the claim petition.

5. From the rival contentions of the parties, the Tribunal framed necessary issues, for its determination.

6. The claimant to prove his case examined three witnesses as PW-1 to PW-3 and marked 18 documents, as per Exs.P-1 to P-18. Respondents have examined one witness as RW-1 but not marked any documentary evidence.

7. The Tribunal after hearing both parties and appreciating the evidence on record, held that the accident occurred due to rash and negligent driving of the offending lorry by its driver and has awarded the following amount of compensation:



Particulars	Amount in Rs.
Loss of future earnings	3,34,800/-
Pain and sufferings	25,000/-
Medical expenses	4,08,573/-
Nourishment, conveyance and attendant charges	9,000/-
Loss of income during laid up period	46,500/-
Loss of amenities in life	15,000/-
Future medical expenses	15,000/-
<i>Total</i>	<i>8,53,873/-</i>

8. The Tribunal has taken income of the claimant as Rs.15,500/- per month and applied the multiplier as '18', accepted his age as 21 years and the disability assessed as 10%.

9. The fact of the accident and injuries sustained by the claimant are not in dispute. The grievance of the appellant in this case is that disability taken by the Tribunal is on the lower side. According to the evidence of PW.3, the disability of the claimant was 49% to the left lower limb and 25% to the whole body. But the Tribunal without sufficient reasons has taken the disability at 10%. He further stated that the amount



of compensation awarded under other heads are on the lower side. Therefore, prayed to enhance the compensation.

10. Learned counsel for the appellant has produced a copy of evidence of PW.3, wherein it is stated that the claimant has suffered 37.5% disability to the left upper limb. The remaining 20% disability pertains to the fracture of mandible. However, it may not lead to functional disability but it may cause inconvenience while chewing the food. Therefore, the Tribunal, instead of 10%, ought to have considered 12% as permanent disability. On re-appreciation of the materials available on record, the amount of compensation awarded under some of the heads require enhancement. No amount of compensation is awarded towards the loss of amenities. The fracture of mandible would lead to inconvenience while chewing the food and the person may look ugly. The fracture is not properly united. Considering the same, some amount of compensation needs to be awarded towards loss of amenities. Accordingly, the following amount of compensation is awarded:



Particulars	Amount in Rs.
Pain and sufferings	60,000/-
Loss of amenities	50,000/-
Medical expenses	4,08,573/-
Loss of future earning capacity due to disability (Rs.15,500/- x 12 x 18 x 12%)	4,01,760/-
Future medical expenses	50,000/-
Special diet, conveyance and attendant charges	25,000/-
Loss income during laid up period	46,500/-
<i>Total</i>	<i>10,41,833/-</i>
<i>Amount awarded by the Tribunal</i>	<i>8,53,873/-</i>
<i>Enhancement-</i>	<i>1,87,960/-</i>
<i>Rounded off-</i>	<i>1,88,000/-</i>

11. The claimant is entitled to interest on the enhanced amount of compensation at the rate of 6% per annum from the date of petition till its realization.

12. Undisputedly, the respondents are liable to pay the said amount.

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



ORDER

- i) The Appeal is ***allowed in part.***
- ii) The impugned judgment and award dated 10th October 2023, passed in MVC.No.3198/2022, by the II Additional Judge and ACMM Member MACT, Court of Small Causes, Bengaluru, SCCH-13, stands modified;
- iii) The claimant is entitled to enhancement of Rs.1,88,000/-, with interest at the rate of 6% p.a., from the date of petition till its realization, excluding interest on the future medical expenses.
- iv) The remaining portion of the award is not disturbed.
- v) Draw award accordingly.

Registry is directed to send a copy of this judgment to the concerned Tribunal.

**Sd/-
(UMESH M ADIGA)
JUDGE**

AMA
List No.: 1 SI No.: 10