



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.8386 OF 2023 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO.6682 OF 2023 (MV-I)

IN MFA No. 8386/2023:

BETWEEN:

MR HANUMANTHA NAIK,
S/O DAKYA NAIK,
AGED ABOUT 54 YEARS,
COCONUT PLUCKER,
COOLIE AND MILK VENDOR,
R/AT. TALLIKATTE VILLAGE AND POST,
BHADRAVATHI TALUK,
SHIVAMOGGA DISTRICT -577 201.

...APPELLANT

(BY SRI. M.V. MAHESWARAPPA, ADVOCATE)

AND:

1. UMESH
S/O. CHANDRAPPA,
AGED 30 YEARS,
COOLIE (RIDER OF HERO HONDA CD-100)
MOTOR CYCLE BEARING REGN.NO.
KA-04-Q-9872
R/AT: ARALIHALLI VILLAGE,
KUDLIGERE HOBLI,
BHADRAVATHI TALUK,
SHIVAMOGGA DISTRICT.



2. BASAVARAJA
S/O. SIDDAPPA,
AGED ABOUT 57 YEARS,
AGRICULTURIST,
(OWNER OF HERO HONDA
CD-100 MOTORCYCLE BEARING
REGN NO.KA 04/Q-9872)
R/O. ARALIHALLI VILLAGE,
KUDLIGERE HOBLI,
BHADRAVATHI TALUK
SHIVAMOGGA DISTRICT.

3. THE BRANCH MANAGER
UNITED INDIA INSURANCE CO. LTD.,
C.N. ROAD, OLD TOWN,
BHADRAVATHI.

HANUMANTHA NAIKA @ ANNA NAIKA,
S/O PAPA NAIKA,
(RIDER OF HERO HONDA PASSION)
MOTOR CYCLE BEARING REG.NO.
KA-17 /X-9204,
SINCE DEAD BY HIS LRS.

4. SMT. NAGI BAI @ NAGE,
W/O. LATE HANUMANTHA NAIKA,
AGED ABOUT 33 YEARS,
R/AT: JAYANAGARA VILLAGE,
TALLIKATTE POST,
BHADRAVATHI TALUK
SHIVAMOGGA DISTRICT.

HALAPPA
S/O. KENCHAPPA
(NOW DEAD BY HIS LRS)

5. HARISH
S/O. LATE HALAPPA,
AGED ABOUT 34 YEARS,
AGRICULTURIST,
OWNER OF HERO HONDA PASSION



MOTORCYCLE BEARING REGN.
NO. KA -17/X 9204
R/O GUDDAPPA KOOMARANAHALLI
VILLAGE, BASAVAPATNA HOBLI,
CHANNAGIRI TALUK,
DAVANAGERE DISTRICT - 586 201.

6. THE BRANCH MANAGER
UNITED INDIA INSURANCE CO. LTD.,
C.N. ROAD, OLD TOWN
BHADRAVATHI,
SHIVAMOGGA DISTRICT- 577 201.

...RESPONDENTS

(BY SRI. RAVISH BENNI, ADVOCATE FOR R3 AND R6,
NOTICE TO R1 AND R2 ARE DISPENSED WITH,
VIDE ORDER DATED 06.11.2024,
NOTICE TO R4 IS HELD SUFFICIENT
VIDE ORDER DATED 10/01/2025,
AND R5 IS SERVED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 01.06.2023 PASSED IN
MVC NO.32/2022 ON THE FILE OF THE IV ADDITIONAL
DISTRICT AND SESSIONS JUDGE, MACT, (IV) SHIVAMOGGA,
SITTING AT BHADRAVATHI, PARTLY ALLOWING THE CLAIM
PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT
OF COMPENSATION.

IN MFA NO.6682/2023:

BETWEEN:

THE BRANCH MANAGER
UNITED INDIA INSURANCE COMPANY LIMITED,
C.N ROAD, OLD TOWN BHADRAWATHI,
REPRESENTED BY ITS
DIVISIONAL MANAGER
UNITED INDIAN INSURANCE CO. LTD.,
NO.1137/947, 2ND FLOOR,
RUB BUILDING,



NC: 2025:KHC:52064
MFA No. 8386 of 2023
C/W MFA No. 6682 of 2023

A.A.CIRCLE, B.H ROAD,
SHIVAMOGGA-577 201.

...APPELLANT

(BY SRI. RAVISH BENNI, ADVOCATE)

AND:

1. HANUMANTHA NAIK
S/O DAKYA NAIKA,
AGED ABOUT 53 YEARS,
COCONUT PLUCKER,
COOLIE AND MILK VENDOR
R/O TALLIKATTE VILLAGE AT POST,
BHADRAVATHI TALUK,
SHIVAMOGGA,
PIN CODE-557 227.

HANUMANATHA NAIKA @ ANNA NAIKA
SINCE DEAD BY HIS LRS.

2. SMT. NAGI BAI @ NAGE,
W/O LATE HANUMANATHA NAIKA,
AGED ABOUT 33 YEARS,
R/O JAYANAGARA VILLAGE,
TALLIKATTE POST,
BHADRAVATHI TALUK,
SHIVAMOGGA
PIN - 577 227.

HALAPPA
S/O KENCHAPPA
NOW DIED BY HIS L.R

3. HARISH
S/O LATE HALAPPA,
AGED ABOUT 35 YEARS,
AGRICULTURIST,
OWNER OF HERO HONDA PASSION
BEARING REG NO.KA 17 X 9204
R/O GUDDAPPA KOOMARANAHALLI VILLAGE,



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MFA No. 8386 of 2023
C/W MFA No. 6682 of 2023

BASAVAPATNAA HOBLI,
CHANNAGIRI TALUK,
DAVANGERE DISTRICT
PIN CODE-557 551.

...RESPONDENTS

(BY SRI. M.V. MAHESWARAPPA, ADVOCATE FOR R1,
NOTICE TO R2 IS HELD SUFFICIENT,
VIDE ORDER DATED 10/01/2025, R3 IS SERVED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 01.06.2023 PASSED
IN MVC NO.32/2022 ON THE FILE OF THE IV ADDITIONAL
DISTRICT AND SESSIONS JUDGE, MACT IV, SHIVAMOGGA
SITTING AT BHADRAVATHI, AWARDING COMPENSATION
OF RS.4,25,600/- WITH INTEREST AT 6% PA FROM THE
DATE OF ORDER TILL ITS REALIZATION.

THESE APPEALS, COMING ON FOR ADMISSION, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE UMESH M ADIGA

ORAL JUDGMENT

Both these appeals arise out of a judgment and
award dated 1st June 2023, passed by the IV Addl.District
and Sessions Judge and M.A.C.T.-IV, Shivamogga, sitting
at Bhadravathi, (for short 'the Tribunal'), in
MVC.No.32/2022.

2. The claimants have filed MFA.No.8386/2023 for
enhancement of compensation and the insurer of the



vehicle bearing registration No.KA-17-X-9204, filed MFA.No.6682/2023, challenging its liability to pay the compensation.

3. Both the appeals arise out of common judgment and award and they are listed for admission, with the consent of learned advocates appearing for both the sides, they are taken up together for final disposal.

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

5. The brief facts of the case are that, on 10.09.2021, at about 7.15 p.m., claimant and one Hanumantha Naika @ Anna Naika, who was respondent No.4 before the Tribunal, were proceeding on the motorcycle bearing registration No.KA-17-X-9204 on Aralihalli-Thiplapura road. When they reached near the house of one Ravi, a motorcycle bearing registration No.KA-04-Q-9873, being ridden by its rider in a rash and negligent manner, hit the motorcycle of the claimant. As a



result, claimant sustained grievous injuries to right leg, right knee, right eye and head injuries. He took treatment as an inpatient and has suffered permanent disability. With these reasons, claimant prayed to award the compensation.

6. In the original claim petition, rider, owner and insurer of vehicle bearing registration No.KA-04-Q-9873 were parties as respondent Nos.1 to 3. The respondent No.3 sold the policy to both the owners. Respondent No.3 has not disputed its liability to pay the compensation apportioned by the Tribunal in respect of respondent Nos.1 and 2. In the appeal filed by the insurance company i.e., MFA.No.6682/2023, they were not made as parties.

7. The respondent No.1 was the rider, respondent No.2 was the owner and respondent No.3 was the insurer of the motorcycle bearing registration No.KA-04-Q-9873; Respondent No.4 was the rider, respondent No.5 - late Halappa, son of Kenchappa, was the owner and



respondent No.6 was the insurer of motorcycle bearing registration No.KA-17-X-9204. Since respondent No.5 was no more, his legal representative i.e., respondent No.5(a) was brought on record.

8. Respondent No.5(a) has not filed any written statement. Respondent Nos.3 and 6 - insurers have filed their written statement denying the averments made in the claim petition and denied their liability to pay compensation or indemnify the owner of the motorcycle. The insurer of the motorcycle bearing registration No.KA-17-X-9204 contended that the policy given was an act policy and the injured claimant was a pillion rider, therefore, it is not liable to indemnify the owner of the vehicle and the owner is liable to pay the compensation. With these reasons, they prayed to dismiss the claim petition.

9. Respondent No.4 was the rider of the motorcycle, wherein claimant was travelling as a pillion rider. He has



also denied the petition averments and denied his liability to pay compensation and prayed to dismiss the claim petition.

10. The Tribunal framed necessary issues, recorded the evidence of parties to the proceedings and after hearing the arguments of both sides, disposed of MVC.No.32/2022 by the impugned judgment and award dated 1st June 2023. The Tribunal held that accident occurred due to rash and negligent riding of both the motorcycles involved in the accident, and considering the nature of injuries sustained by the claimant, awarded the following amount of compensation under different heads :

Particulars	Amount in Rs.
Pain and agony	80,000/-
Loss of future income	1,38,600/-
Medical expenses	85,000/-
Travelling expenses	17,000/-
Food, attendant, conveyance, nourishment and other incident charges etc.	10,000/-



Loss of income during treatment period	30,000/-
Loss of amenities	40,000/-
Future medical expenses	25,000/-
<i>Total</i>	<i>4,25,600/-</i>

11. The Tribunal has directed the respondent-insurer of the motorcycle bearing registration No. KA-17-X-9204 to pay 50% of the compensation amount for causing the accident due to contributory negligence of its rider.

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

13. Learned counsel for the claimant vehemently contended that the amount of compensation awarded is on the lower side; the compensation awarded especially under the heads pain and suffering, medical expenses, loss of future earning capacity due to permanent disability and loss of amenities are on the lower side. The Tribunal has not assessed the disability of the claimant properly.



Therefore, prayed to recalculate the compensation and enhance the same.

14. Learned counsel for the claimant further contended that rider of both the vehicles were joint tortfeasors as per the charge sheet and its enclosures. The claimant was a pillion rider in the motorcycle bearing registration No.KA-17-X-9204. Since the claimant is a third party, he can seek the compensation from either of the joint tortfeasors. Therefore, the owner and insurer of the motorcycle bearing registration No.KA-17-X-9204 are liable to pay the compensation and the insurer may recover the remaining 50% of the compensation from the owner and insurer of the motorcycle bearing registration No.KA-04-Q-9873.

15. Learned counsel for the insurer of the motorcycle bearing registration No.KA-17-X-9204 contended that the policy produced by the owner of the vehicle was an act policy and additional premium was not paid to cover the



risk of pillion rider. Admittedly, claimant was a pillion rider and hence, his risk was not covered under the policy. Therefore, respondent No.6 is not liable to indemnify the owner and pay the compensation. Accordingly, prayed to exonerate the insurance company-respondent No.6 from its liability to pay the compensation.

16. The Tribunal in the impugned judgment, held that accident occurred due to contributory negligence of riders of both the motorcycles in the ratio of 50:50. The said finding is not challenged by the owner or insurer of both the vehicles. Therefore, there is no need to reconsider the same.

17. The injuries suffered by the claimant has been stated in detail in para No.17 of the impugned judgment, and also in Ex.P-15 (discharge summary). He had suffered (i) right proximal tibia plateau fracture - schatzker type-5, (ii) right foot third and fifth digit proximal phalanx fracture (iii) right zygomaticomaxillary



complex fracture (iv) subarachnoid haemorrhage of right frontal lobe.

He took treatment as an inpatient for 9 days. According to PW-2 - doctor, claimant has suffered permanent disability to an extent of 17% to the right lower limb.

18. The claimant contended that, he was doing the job of coconut plucker, agricultural work and was also a milk vendor. He was aged 52 years at the time of the accident. Considering the nature of injuries suffered by the claimant and his occupation, the amount of compensation awarded under the heads, pain and suffering, loss of income during laid up period, loss of amenities and future medical expenses are on the lower side, which requires enhancement. Due to said injuries, he might not be able to attend to his work and lost his earning at least for three to four months.



19. However, the Tribunal has taken loss of income during laid up period only for two months. On re-appreciating all these facts and circumstances of the case, the claimant is entitled to enhancement of global compensation of Rs.70,000/-, on all the heads.

20. The Tribunal has rightly held that the accident occurred due to contributory negligence of riders of both the motorcycles. The offending motorcycle bearing registration No.KA-17-X-9204 was having an act policy. Therefore, risk of the pillion rider was not covered. Under these circumstances, the owner of the said vehicle is liable to pay the compensation. Fastening the liability of respondent No.5(a) on the insurer by the Tribunal is incorrect. On the contrary, respondent No.5(a) - owner of the motorcycle bearing registration No.KA-17-X-9204 is personally liable to pay 50% of the compensation awarded by the Tribunal.



21. The owner and insurer of both the vehicles are parties to this proceedings before the Tribunal. Contributory negligence of rider of each vehicle was decided by the Tribunal. Hence, respective parties shall pay the compensation as decided by the Tribunal i.e., in the ratio of 50:50.

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

23. Accordingly, I proceed to pass the following:

ORDER

i) MFA.No.8386/2023 and MFA.No. 6682/2023 are ***allowed in part.***

ii) The judgment and award dated 1st June 2023, passed in MVC.No.32/2022, by the IV Addl.District and Sessions Judge and M.A.C.T.-IV, Shivamogga, sitting at Bhadravathi, stands modified;



iii) The claimant is entitled to enhanced global compensation of Rs.70,000/- with interest at the rate of 6% p.a. from the date of petition till its realization.

iv) The respondent No.3 - insurance company in MFA.No.8386/2023 shall pay 50% of the compensation, with accrued interest at the rate of 6% p.a. from the date of petition till its realisation, within a period of six weeks from the date of award.

v) Since the policy was an act policy, the owner of offending motorcycle bearing registration No.KA-17-X-9204, shall pay 50% of the amount awarded by the Tribunal, as well as by this Court. He shall deposit the same within a period of six weeks from the date of award.

vi) Whatever amount deposited by the insurance company in MFA.No.6682/2023, shall be transmitted to the concerned Tribunal for disbursement and the amount deposited by the insurer, kept in fixed deposit, shall be refunded to the said insurer i.e., respondent No.6 before the Tribunal.



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vii) The remaining portion of the award
passed by the Tribunal shall remain unaltered.

viii) Draw award accordingly.

Registry is directed to send back the trial Court
records along with a copy of this judgment.

Sd/-
(UMESH M ADIGA)
JUDGE

bk/
List No.: 1 SI No.: 27