



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 30TH DAY OF JANUARY 2026

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 100065 OF 2014 (MV-I)

BETWEEN:

UNITED INDIA INSURANCE CO. LTD.,
BY THE MANAGER OF ITS BRANCH
AT NIPANI, TQ: CHIKODI, BELGAUM,
HEREIN REPRESENTED BY UNITED
INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE, SEETA SMRUTHI,
1568, MARUTI GALLI, BELGAUM,
REPRESENTED BY SR. DIVISIONAL MANAGER.

...APPELLANT

(BY SRI. R.R. MANE, ADVOCATE)

AND:

1. SRI. SHRIKANT JAKKAPPA DEVANGOL,
AGE: ABOUT 37 YEARS, OCC: SERVICE,
R/O: KERUR, TQ: CHIKODI, DIST: BELGAUM.

2. SRI. RAVINDRA VASANT PATIL,
AGE: 34 YEARS, OCC: AGRICULTURE,
R/O: MORAB, TQ: CHIKODI,
DIST: BELGAUM.
(OWNER OF THE M/C NO.KA-23-U-2643)

...RESPONDENTS

(BY SRI. RAMESH I. ZIRALI &
SRI. SHIVARAJ S. BALLOLI, ADVOCATES FOR R1;
NOTICE TO R2 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR
VEHICLES ACT 1988, PRAYING TO CALL FOR THE RECORDS,
ALLOW THIS APPEAL AND SET ASIDE THE JUDGMENT AND
AWARD DATED 02.05.2013 PASSED BY PRESIDING OFFICER,

BHARATHI
H M





FAST TRACK COURT-I, CHIKODI IN MVC.NO.2034/2011 AND TO PASS SUCH OTHER ORDER OR ORDERS AS THIS HON'BLE COURT DEEMS FIT UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE, INCLUDING THE COSTS, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

ORAL JUDGMENT

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

Learned counsel Sri Shivaraj S.Balloli for respondent No.1 is present.

2. This is the appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 (in short, 'M.V. Act') challenging the judgment and award passed in M.V.C.No.2034/2011 dated 02.05.2013 on the file of the learned Fast Track Court No-I, Chikkodi (in short, the 'Tribunal').

3. Parties would be referred with their ranks, as they were before the Tribunal for the sake of convenience and clarity.

4. The claimant has filed the claim petition under Section 166 of the M.V. Act claiming for compensation in respect of the accident that has taken place on 11.06.2010 at 08.00 p.m.



involving Motorcycle bearing No.MH-09/TC-300 and Motorcycle bearing No.KA-23/U-2643 at near petrol pump near B.K.College on Chikkodi-Ankali road and it caused the accident to petitioner/claimant and he sustained injuries in the said accident.

5. In view of the accident, claimant could not work as he was working earlier. Hence, prayed for compensation.

6. After service of notice, respondent No.1 appeared through his counsel, but not filed his objection statement.

7. Respondent No.2 appeared through its counsel before the Tribunal and filed objection statement, wherein it denied the entire averments made in the petition and involvement of motor vehicles and contended that there is contributory negligence on the part of claimant in causing the accident. Hence, prayed for dismissal of the petition.

8. On behalf of claimant, claimant was examined as P.W.1. apart from examining the doctor who issued disability certificate and marking Exs.P.1 to P.17 before the Tribunal. On behalf of respondents, no evidence was let in.



9. After recording evidence of both sides and hearing arguments of both sides, the Tribunal came to the conclusion that the claimant has sustained a communitied fracture of right femur and fracture of right hand and the doctor assessed disability at 37% to the right thigh and 5% to the right hand and thereby, comes to the conclusion that there was 30% disability to the claimant and awarded compensation of ₹.3,24,000/- by holding that, he was aged 40 years and relevant applicable multiplier is '15'.

10. Aggrieved by the said judgment and award, respondent No.2/Insurer has preferred the present appeal.

11. Heard arguments.

12. Learned counsel for appellant Sri R.R. Mane would submit that the claimant contended that he was working as slip boy at D.K.S.S.K. Sugar Factory at the time of accidents and sustained fractures. The doctor who treated him is not examined, but only the doctor who issued disability certificate is examined. Hence, the disability assessed by the doctor is inadmissible in law. Furthermore, the claimant continued his job, even after the



accident and hence, the compensation awarded to the claimant is exorbitant and hence, prayed for allowing the appeal and to modify the judgment and award.

13. Even after giving sufficient opportunities, even though learned counsel Sri Shivaraj S. Balloli was undertaken to file vakalath for respondent No.1, he has not filed such vakalath. Notice to respondent No.2 was dispensed with. This is very old matter of 2014. The order sheets speaks that sufficient opportunity was already given to respondent No.1, but he has not chosen to furnish vakalath for anyone. Hence, arguments on behalf of respondent No.1 was taken as heard.

14. Having heard the above arguments and verifying the appeal papers along with records of the Tribunal, the point that arises for consideration is, whether appellant establishes that the compensation awarded by the Tribunal is exorbitant and it requires interference.

15. Finding of this Court on the above point is as under for the following reasons:



It is not in dispute that on 11.06.2010 at 08.00 p.m., involvement of two motor vehicles bearing registration No.MH-09/TC-300 and KA-23/U-2643 at Chikkodi-Ankali road near petrol pump and near B.K. College the accident happened due to rash and negligent riding of the offending motorcycle and because of that, the claimant has sustained injuries.

16. The charge-sheet is filed against the rider of the offending motorcycle. Exs.P.1, 2, 5 to 8 establishes the rashness and negligence on the part of the rider of the offending motorcycle. Exs.P.3 & 4 are wound certificates issued by the Karnataka Medical Department and Society's Hospital and Medical Research Center, Nehru Nagar, Bengaluru. They revealed that the claimant had sustained 6 injuries. Amongst them, injury No.3 is fracture of right femur and injury No.4 is fracture of fourth metacarpal right hand.

17. On examining the patient and examining their records i.e., X-ray and other documents, PW.2-doctor has issued disability certificate as per Ex.P.30 that there is 37% disability to right hand and 5% disability to right hand of the claimant.



18. Thus, the disability to claimant is 42%. $\frac{1}{3}^{\text{rd}}$ of it to be taken for the whole body. Hence, the disability to the whole body of claimant would be 14%. However, the Tribunal has taken the disability at 30%, which is exorbitant.

19. Learned counsel for the appellant would submit that the appellant continued his work even after the accident and he has taken rest only for 6 months and thus, the compensation awarded to the claimant regarding disability is incorrect. However, said argument is not acceptable one, because in the affidavit evidence and also in the cross-examination, the claimant specifically deposed that after the accident, he lost his job, which he was working earlier to the accident as slip boy at D.K.S.S.K. sugar factory. In this record, he has produced the certificate issued by the said factory as per Ex.P.14. This is the certificate issued by the Labour Welfare Officer of S.D.K.S.K.N., Chikkodi that the claimant was working as a slip boy in Agricultural Department with a salary of ₹.6,000/- per month on contract basis from 2003-04 season to till he sustained road accident on 11.06.2010. Thus, the submission of learned counsel



for appellant that the claimant continued his job even after the accident cannot be accepted as true.

20. Ex.P.14 clearly establishes that the salary of a claimant at the time of accident was ₹.6,000/- per month. He sustained disability of 14% to the whole body. As per his evidence, he was born on 01.06.1969. The date of accident is 11.06.2010. Hence, as on the date of accident, the age of claimant was 41 years and thus, the relevant multiplier to be adopted is 14. However, the Tribunal has not calculated it properly and took the age of claimant at 40 and multiplier 15 was adopted, which is incorrect. Hence, by applying multiplier '14', the disability of claimant to be considered at 14% to the whole body. Hence, the compensation towards loss of future earning capacity due to disability is reassessed and quantified as follows:

$$₹.6,000/- \times 14/100 \times 14 \times 12 = ₹.1,41,120/-.$$

21. Hence, the claimant is entitled for compensation of **₹.1,41,120/-** under the head of '**loss of future earning capacity**'. As far as compensation awarded to the claimant in



other heads need not be disturbed, because they are properly awarded. Hence, only under the head loss of future income, the income of claimant is to be taken at ₹.1,41,120/- instead of ₹.3,24,000/- by the Tribunal. Only to that extent, the judgment and award of the Tribunal is to be modified.

22. For the above reasons point under consideration is answered in ***affirmative*** and this Court proceeds to pass the following:

ORDER

- i) The appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is ***allowed in part.***
- ii) Claimant is entitled for compensation of ₹.1,41,120/- instead of ₹.3,24,000/- under the head loss of future income.
- iii) The compensation awarded to claimant under other heads is unaltered.
- iv) The amount in deposit be transmitted to the Tribunal and if it is found in excess, then it shall



NC: 2026:KHC-D:1245
MFA No. 100065 of 2014

be refunded to the respondent No.2/Insurer on
proper identification.

Sd/-
(GEETHA K.B.)
JUDGE

SSP
LIST NO.: 1 SL NO.: 3