

**IN THE HIGH COURT OF KARNATAKA, AT DHARWAD**

**DATED THIS THE 17<sup>TH</sup> DAY OF FEBRUARY, 2026**

**BEFORE**

**THE HON'BLE DR. JUSTICE K.MANMADHA RAO**

**MISCELLANEOUS FIRST APPEAL NO.101211 OF 2016 (MV)**

**BETWEEN:**

KUMARI ASHWINI  
D/O BASANAPPA TALLUR  
AGE: 16 YEARS, OCC: STUDENT,  
R/O: NAGANUR, TQ: BAILHONGAL,  
DIST: BELAGAVI.

SINCE MINOR RPTD BY HER NATURAL FATHER-

SHRI BASAPPA S/O SHIVANAPPA TALLUR,  
AGE: 42 YEARS, OCC: AGRICULTURE,  
R/O: NAGANUR, TQ: BAILHONGAL, DIST: BELAGAVI.

...APPELLANT

(BY SRI. HANAMANT R. LATUR, ADVOCATE)

**AND:**

THE DIVISIONAL CONTROLLER,  
NWKRTC, BELAGAVI.

...RESPONDENTS

(BY SRI. M.K. SOUDAGAR, ADVOCATE)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLE ACT, PRAYING TO ENHANCE THE COMPENSATION BY MODIFYING THE JUDGMENT AND AWARD PASSED BY SENIOR CIVIL JUDGE AND ADDL. M.A.C.T., BAILHONGAL, IN MVC NO.1323/2014 DATED 02.01.2016 IN THE INTEREST OF JUSTICE AND EQUITY.

THIS MFA HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 05.02.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE DR. JUSTICE K.MANMADHA RAO

**CAV JUDGMENT**

1. This appeal is filed by the minor claimant represented by her natural guardian under Section 173(1) of the Motor Vehicles Act, 1988, calling in question the judgment and award dated 02.01.2016 passed in MVC No.1323/2014 on the file of the Senior Civil Judge and Additional Motor Accident Claims Tribunal, Bailhongal, seeking enhancement of compensation.

2. Facts leading to filing of the appeal are that the appellant was aged about 14 years at the time of the accident that occurred on 09.12.2013. On that day, at about 9.30 a.m., while the minor claimant was proceeding from Naganur towards her school on her bicycle on the left side of the road, when she reached near the land of one Sidram S. Mathad on Naganur Road, the driver of NWKRTC bus bearing registration No. KA-22/F-1368, coming from the opposite direction, drove the vehicle in a rash and negligent manner without observing traffic rules and dashed against the claimant, resulting in the accident.

3. Due to the impact, the minor claimant sustained grievous injuries. She was admitted to Malaprabha Multi Speciality Hospital, Bailhongal, where she was treated by Dr.C.D.Kulkarni as an inpatient from 09.12.2013 to 15.12.2013,

i.e., for seven days. She underwent conservative treatment and surgical intervention by way of closed reduction nailing. It is stated that the father of the claimant incurred medical and incidental expenses amounting to about Rs.30,000/-. After discharge, she was advised follow-up treatment.

4. It is further contended that prior to the accident, the claimant was hale and healthy and a bright student, and due to the injuries sustained, she has become weak and is unable to attend to her normal activities and has suffered permanent disability. The accident was registered by Nesargi Police in Crime No.141/2013 for offences punishable under Sections 279 and 338 of IPC against the driver of the offending bus. The respondent, being the owner-cum-insurer of the bus, is liable to pay compensation.

5. The claimant filed a petition seeking compensation of Rs.5,00,000/-. The Tribunal, by judgment and award dated 02.01.2016, held that the accident occurred due to the rash and negligent driving of the offending bus and awarded total compensation of Rs.1,22,000/- with interest at 9% per annum from the date of petition till deposit. Aggrieved by the quantum of compensation, the present appeal is filed.

6. Learned counsel for the appellant submits that the Tribunal has failed to award any compensation towards permanent disability though the claimant suffered fracture of radius and ulna of the right hand and disability assessed at 20% to the right upper limb. It is contended that the compensation awarded under various heads is on the lower side and that the Tribunal has not properly applied the principles laid down by the Hon'ble Supreme Court in ***Master Mallikarjun v. Divisional Manager, National Insurance Co. Ltd.***, reported in **2013 ACJ 2445**. Hence, he seeks enhancement of compensation.

7. *Per contra*, learned counsel for the respondent-Corporation submits that the judgment and award passed by the Tribunal is just and reasonable. It is contended that the decision in ***Master Mallikarjun*** is not applicable to the facts of the present case and that no interference is warranted. The point that arises for consideration is:

"Whether the claimant has made out a case for enhancement of compensation, and if so, to what extent?"

8. On hearing the learned counsel for the parties and on perusal of the material on record, it is not in dispute that the claimant was a minor aged about 14 years at the time of the accident and that she sustained fracture of radius and ulna of

the right hand along with other injuries. The medical evidence discloses that the claimant has suffered disability to the extent of 20% to the right upper limb. The Tribunal has awarded a sum of Rs.60,000/- towards pain and suffering and loss of amenities, Rs.12,000/- towards medical expenses, Rs.20,000/- towards loss of income of the guardian during the period of treatment, and Rs.10,000/- towards incidental and miscellaneous expenses. No separate compensation has been awarded towards permanent disability.

9. It is true that the Hon'ble Supreme Court in **Master Mallikarjun** has laid down structured guidelines for awarding compensation in cases where children suffer permanent disability. However, the application of the said guidelines is not automatic and depends upon the nature of injuries, the extent of disability and its impact on the future prospects of the child.

10. In the present case, the disability assessed is confined to the right upper limb. There is no material placed on record to show that such disability has resulted in functional disability affecting the future earning capacity or educational prospects of the minor claimant. The injuries, though grievous, are not shown to be of such severity as to warrant

compensation under the higher slab contemplated in ***Master Mallikarjun***.

11. However, having regard to the age of the claimant, the nature of injuries sustained, the period of hospitalization and the discomfort and hardship likely to be suffered on account of residual disability, this Court is of the considered opinion that the compensation awarded towards pain and suffering and loss of amenities is on the lower side. Therefore, some enhancement under the said head is justified.

12. This Court deems it appropriate to award an additional sum of **Rs.40,000/-** towards pain, suffering and loss of amenities. The compensation awarded under other heads by the Tribunal is found to be just and reasonable and does not call for interference. Accordingly, the compensation is re-determined as under:

|                                        |                        |
|----------------------------------------|------------------------|
| Pain and suffering and amenities       | - Rs.1,00,000/-        |
| Medical and hospital charges           | - Rs. 12,000/-         |
| Nourishment charges                    | - Rs. 15,000/-         |
| Loss of income during treatment period |                        |
| Of the guardian of petitioner          | - Rs. 20,000/-         |
| Attendant charges                      | - Rs. 15,000/-         |
| <b>Total</b>                           | <b>- Rs.1,62,000/-</b> |

13. Accordingly, the total compensation stands enhanced from Rs.1,22,000/- to **Rs.1,62,000/-**. In the result, this Court proceeds to pass the following:

ORDER

- i. The appeal is ***allowed-in-part***.
- ii. The judgment and award dated 02.01.2016 passed in MVC No.1323/2014 by the Senior Civil Judge and Addl. MACT, Bailhongal, is hereby ***modified***.
- iii. The claimant is entitled to an enhanced compensation of **Rs.40,000/-**, in addition to Rs.1,22,000/- awarded by the Tribunal, making the total compensation **Rs.1,62,000/-**.
- iv. The enhanced compensation of **Rs.40,000/-** shall carry interest at 6% per annum from the date of petition till the date of deposit.
- v. The respondent-Corporation shall deposit the enhanced compensation along with interest within a period of six weeks from the date of receipt of a certified copy of this judgment.

vi. The amount shall be disbursed in accordance with  
law, keeping in view that the claimant is a minor.

**Sd/-  
(DR. K.MANMADHA RAO)  
JUDGE**

KGK,CT:VP