

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 20TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.100749 OF 2015 (MV)

C/W

MISCELLANEOUS FIRST APPEAL NO.103164 OF 2015 (MV)

IN MFA NO.100749/2015

BETWEEN:

THE MANAGER,
NATIONAL INSURANCE CO., LTD.,
DIVISIONAL OFFICE, BELAGAVI.
REPRESENTED BY DEPUTY MANAGER,
NATIONAL INSURANCE CO., LTD.,
REGIONAL OFFICE, 2ND FLOOR,
ARIHANT PLAZA, KESUGAL ROAD,
KESHWAPUR, HUBBALLI.

...APPELLANT

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

AND:

1. SHRI BASAVANT BASAPPA HADAPAD
AGE: 36 YEARS, OCC: BARBER, NOW NIL,
R/O: H.NO.367/B, BASAVESHWAR ONI,
H.NO.331 TO 423, JAKKANAYAKANKOPPA,
TQ: BAILHONGAL, NOW AT H.NO.6/2,
VITTAL TEMPLE ROAD,
HALAGA, TQ: AND DIST: BELAGAVI.

2. SHRI VITAL BHAVAKANNA PATIL
AGE: MAJOR, OCC: SERVICE,
R/O: H.NO.264, GANAPATI GALLI,
BASTWAD, TQ: AND DIST: BELAGAVI.

...RESPONDENTS

(R1 AND R2-SERVED)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLE ACT, PRAYING TO CALL FOR RECORDS IN CASE MVC NO.1194/2014 ON THE FILE OF FAST TRACK COURT II AND ADDL. MACT, BELAGAVI AND SET ASIDE THE

JUDGMENT AND AWARD DATED 23.01.2015 BY ALLOWING THIS APPEAL WITH COST AND GRANT SUCH OTHER AND/OR FURTHER RELIEF'S AS THIS HON'BLE COURT DEEMS FIT TO GRANT IN THE FACTS AND CIRCUMSTANCES OF THE CASE IN THE INTEREST OF JUSTICE AND EQUITY.

IN MFA NO.103164/2015
BETWEEN:

SHRI BASAVANT BASAPPA HADAPAD
AGE: 35 YEARS, OCC: BARBER, NOW NIL,
R/O:H.NO.367/B, BASAVESHWAR ONI, H.NO.331 TO 423
JAKKANAYAKANKOPPA, VITTAL TEMPLE ROAD, HALAGA,
TQ:BAILHONGAL, NOW AT H.NO.6/2, TQ: & DIST:
BELAGAVI.

...APPELLANT

(BY SRI. S.M. KALWAD, ADVOCATE)

AND:

1. SHRI VITTAL BHAVAKANNA PATIL
AGE: MAJOR, OCC: SERVICE,
R/O:H.NO.264, GANAPATI GALLI,
BASTWAD, TQ: & DIST: BELAGAVI.

2. THE MANAGER,
THE NATIONAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE, BELAGAVI.

...RESPONDENTS

(BY SRI. M.K. SOUDAGAR, ADVOCATE FOR R2;
NOTICE TO R1 IS DISPENSED WITH)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLE ACT 1988, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 23.01.2015 MADE IN MVC NO.1194/2014 PASSED BY THE COURT OF FAST TRACK COURT II AND ADDL. MACT, BELAGAVI AND CONSEQUENTLY ENHANCE THE COMPENSATION AMOUNT AS CLAIMED IN THE CLAIM PETITION, IN THE INTEREST OF JUSTICE AND EQUITY.

THESE MISCELLANEOUS FIRST APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 06.02.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

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

CAV JUDGMENT

These two appeals arise out of the judgment and award dated 23.01.2015 passed in MVC No.1194/2014 by the Fast Track Court-II and Addl. MACT, Belagavi, whereby compensation of Rs.5,00,000/- with interest at 9% per annum was awarded in favour of the claimant for the injuries sustained in a road traffic accident. MFA No.100749/2015 is filed by the insurer seeking reduction of compensation and MFA No.103164/2015 is filed by the claimant seeking enhancement. Since both appeals arise out of the same judgment, they are disposed of by this common judgment.

2. The claimant contended before the Tribunal that on 03.04.2014 at about 6.30 p.m., while he was proceeding on a bicycle on the service road of NH-4 near Halaga village, a motorcycle bearing registration No.KA-22/ED-4987 came in a rash and negligent manner and dashed against him, resulting in grievous injuries including fracture of both bones of the right leg. He was treated as an

inpatient and underwent surgery with implants. It was further contended that he was working as a barber and earning Rs.15,000/- per month and that due to permanent disability he suffered loss of earning capacity.

3. The Tribunal, on appreciation of oral and documentary evidence including FIR, complaint, wound certificate, medical records and disability evidence, held that the accident occurred due to the negligence of the rider of the motorcycle and awarded total compensation of Rs.5,00,000/- under various heads.

4. Learned counsel appearing for the insurer contended that the Tribunal committed an error in assessing the compensation on the higher side. It is submitted that there was no documentary evidence to establish income of Rs.15,000/- per month and the Tribunal adopted excessive functional disability while calculating future loss of income. It is further contended that the compensation granted under the heads of pain and suffering and loss of amenities is disproportionate to the injuries sustained and therefore the award requires interference.

5. Per contra, learned counsel appearing for the claimant submitted that the claimant sustained fracture injuries to the weight-bearing part of the body and continues to suffer difficulty in standing for long hours which directly affects his avocation as a barber. It is argued that the Tribunal ought to have granted higher compensation and therefore enhancement is sought.

6. Having heard learned counsel on both sides and on re-appreciation of the material on record, this Court finds that the occurrence of the accident and the injuries sustained by the claimant are not in serious dispute. The only question that arises for consideration is with regard to the quantum of compensation.

7. The claimant asserted a monthly income of Rs.15,000/-, however no documentary evidence was produced. In such circumstances, notional income has to be fixed on a reasonable basis. The Hon'ble Supreme Court in ***Syed Sadiq vs. Divisional Manager, United India Insurance Co. Ltd.*** reported in **2014 ACJ 627** has held that where there is no proof of income, a reasonable

notional income must be assessed considering the year of accident and nature of avocation. Therefore, reassessment of compensation becomes necessary.

8. The medical evidence indicates fracture of both bones of the right leg and surgery with implants. Though the doctor has spoken about disability to the limb, it is well settled in ***Raj Kumar vs. Ajay Kumar*** reported in **2011 ACJ 1 SC** that the Court must consider functional disability affecting earning capacity. The evidence on record indicates that the claimant continues to run a barber shop and therefore the disability affecting earning capacity requires modification.

9. Considering the nature of injuries, period of treatment and the principles governing award of compensation, this Court reassesses the compensation as follows:

Sl.No.	Particulars	Amount (Rs)
1	pain and suffering;	40,000
2	loss of amenities	50,000
3	loss of income during laid-up period	24,000
4	incidental charges	29,000

5	loss of future income	1,48,500
6	Future medical expenses	20,000
	Total	3,11,500
	Less: compensation awarded by the Tribunal	5,00,000
	Reduced compensation	1,88,500

10. Thus, the claimant is entitled to total compensation of Rs.3,11,500/- as against Rs.5,00,000/- awarded by the Tribunal and there shall be reduction of Rs.1,88,500/-.

11. The Tribunal awarded interest at 9% per annum. Considering the prevailing rate of interest consistently adopted by this Court in similar matters, interest at 6% per annum from the date of petition till realization would be just and proper.

12. Accordingly, this court proceeds to pass the following:

ORDER

- i) MFA No.100749/2015 filed by the Insurance Company is allowed in part.

- ii) The claimant is entitled for reduced compensation of Rs.3,11,500/- as against Rs.5,00,000/- awarded by the Tribunal with interest at 6% per annum from the date of petition till realization.
- iii) The insurer shall deposit the modified compensation amount within six weeks from the date of receipt of copy of this judgment.
- iv) Amount already deposited, if any, shall be transmitted to the Tribunal for disbursement in accordance with law
- v) MFA No.103164/2015 filed by the claimant stands dismissed.

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

MBS, CT:VP