



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 13TH DAY OF FEBRUARY 2026

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 21358 OF 2013 (MV-I)

BETWEEN:

SMT. REKHA W/O. JOTIBA KADAM,
AGED ABOUT 33 YEARS,
OCC: AGRICULTURE COOLIE (NOW NIL),
R/O: CHAVAT GALLI, BELGAUM,
TQ: AND DIST: BELGAUM.

...APPELLANT

(BY SRI. K. ANANDKUMAR, ADVOCATE)

AND:

1. PRAMOD S/O. MARUTI CHAVAN,
AGE: MAJOR, OCC: PRIVATE WORK,
R/O: PLOT NO.9, MAHADWAR ROAD,
5TH CROSS, AT BELGAUM, DIST: BELGAUM.

2. THE DIVISIONAL MANAGER,
THE NATIONAL INSURANCE CO. LTD.,
RAMDEV GALI, BELGAUM, DIST: BELGAUM.

...RESPONDENTS

(BY SRI. GANGADHAR S. HOSKERI, ADVOCATE FOR R2;
NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988 PRAYING TO ALLOW THE ABOVE MISC. FIRST APPEAL AND CONSEQUENTLY PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 01.02.2013 PASSED BY THE COURT OF THE FAST TRACK COURT-I AND MEMBER ADDITIONAL MACT AT BELGAUM IN M.V.C.NO.1361/2012 AND ENHANCE THE COMPENSATION AS PRAYED IN THE CLAIM PETITION 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.)

This appeal is filed under Section 173(1) of Motor Vehicles Act, 1988 by the claimant not being satisfied with the quantum of compensation awarded in MVC No.1361/2012 dated 01.02.2013 on the file of FTC-I, Additional MACT, Belagavi (for short, 'Tribunal').

2. Parties are referred with their ranks as they were before the Tribunal for the sake of convenience and clarity.

3. The claimant has filed claim petition under Section 166 of Motor Vehicles Act before the Tribunal claiming compensation for the accident that had taken place on 10.04.2012 at 19.00 hours on Belagavi-Rakaskoppa road involving motor cycle bearing Reg.No.KA-22/EE-1161. It is the case of the claimant that while claimant returning from her agricultural work as a pedestrian on left side of the road, the motor cycle came from behind from Rakaskoppa



side rashly and negligently with high speed and dashed against the claimant and thereby caused the accident. Due to the accident, claimant sustained injuries and thus claimed compensation.

4. After service of notice of claim petition, owner of the motor cycle has filed objection statement, wherein he denied the averments made in the claim petition in toto. On the other hand, it is contended that on the alleged date of accident, rider of the motor cycle was riding slowly and cautiously and at that time claimant came from opposite side suddenly before the motor cycle and thus rider has lost control over the motor cycle and dashed against the claimant. Hence, it is the claimant, who is responsible for causing the accident. The vehicle in question is validly insured with respondent No.2 and hence, prayed for dismissal of claim petition with costs.

5. Respondent No.2-insurer appeared through its counsel and filed objection statement, wherein it is



contended that rider of the motorcycle was not holding valid and effective driving licence to drive the motorcycle. The accident alleged in the claim petition is not happened. It is a false and concocted one. Hence, prayed for dismissal of claim petition.

6. On behalf of claimant, claimant was examined as P.W.1 apart from examining doctor as P.W.2 and marking Exs.P.1 to P.14 and closed her side before the Tribunal. On behalf of respondents, insurance policy was marked as Ex.R.1, but no evidence was let in.

7. After recording evidence on both sides and hearing arguments of both sides, the Tribunal came to the conclusion that the accident happened due to rash and negligent riding of the rider of motor cycle and awarded compensation of ₹.1,02,000/- under the following heads:



1	<i>Injury, pain and agony</i>	<i>Rs.25,000/-</i>
2	<i>Medical expenses</i>	<i>Rs.32,000/-</i>
3	<i>Nursing, Attendant charges, extra Nourishment and conveyance</i>	<i>Rs.10,000/-</i>
4	<i>Loss of earning during treatment</i>	<i>Rs.10,000/-</i>
5	<i>Loss of amenities and future Unhappiness</i>	<i>Rs.25,000/-</i>
	<i>Total</i>	<i>Rs.1,02,000/-</i>

8. Not satisfied with the quantum of compensation, the claimant/appellant has preferred the present appeal.

9. Heard both sides.

10. Learned counsel for appellant/claimant, Sri K.Anandkumar would submit that the Tribunal by relying upon the judgment of Co-ordinate Bench of this Court in MFA No.2973/2005 dated 19.07.2005 has not granted the compensation under the head 'future earning capacity' to the claimant, as claimant suffered fracture of clavicle bone even though the doctor assessed the disability at 30% to the particular limb. Hence, prayed for granting compensation under the head-'loss of future earning capacity'. In this regard, he relied on the judgment of Co-



ordinate Bench of this Court in MFA No.4604/2008 dated 18.11.2011.

11. Learned counsel for respondent No.2, Sri Gangadhar S Hoskeri would submit that P.W.2 is not the treated doctor. Hence, claimant is not entitled for compensation under the head 'loss of future earning capacity' because he has not established the disability. The evidence of P.W.2 is not reliable. Hence, prayed for dismissal of appeal.

12. Having heard arguments of both sides and verifying the appeal papers along with Trial Court records, the point that arises for consideration is:

"1. Whether the appellant/claimant is entitled for compensation towards 'loss of future earning capacity'? If so, at what rate?"

13. Finding of this Court on the above point is in '**Affirmative**' for the following:



REASONS

14. The date, place and time of accident and sustaining injury by the claimant in said accident are not in dispute. It is established that on 10.04.2012, when claimant was coming after completion of her agricultural work to her house at about 07.00 p.m., she met with an accident from motor cycle bearing No.KA-22/EE-1161 and sustained the injuries mentioned in wound certificate as per Ex.P.7.

15. According to this wound certificate, the claimant has sustained dislocation of a cromio-clavicle (left), which is grievous in nature and other two injuries are simple in nature. The claimant has produced several medical documents along with prescription and other documents to show that she has taken treatment for the aforesaid injuries. The charge-sheet and its annexure would reveal that the accident happened due to rash and negligent riding of rider of the motor cycle. Ex.P.12 is the disability certificate issued by P.W.2.



16. The Tribunal has mentioned the details of this disability certificate in detail in the impugned judgment and only based on the judgment of Co-ordinate Bench of this Court in MFA No.2973-2005 dated 19.07.2005, has not granted compensation to the claimant towards 'loss of future earning capacity'. In the aforesaid judgment, it is held that, 'in case of clavicle and mandible fractures, there would be no consequence loss of future earning capacity. Therefore any compensation under the said head is impermissible',

17. In this regard, learned counsel for the appellant/claimant relied upon the judgment of Co-ordinate Bench of this Court in MFA No.4604/2008 dated 18.11.2011, wherein claimant had sustained fracture of left clavicle bone; in the aforesaid judgment, the Tribunal has awarded ₹.3,57,000/- towards loss of future income and it was confirmed by the Co-ordinate Bench.



18. It is to be noted here that in the present case, the claimant was the agricultural coolie worker and hence stretching her hands is required to perform her job qualitatively.

19. In the instant case, Ex.P.12-disability certificate clearly reveals that there is restriction of movement of the fractured shoulder; she was also suffering from frozen shoulder and hence P.W.2-doctor has opined that there is 30% disability to the upper limb of claimant.

20. P.W.2 even though cross-examined by learned counsel for respondent, nothing was elicited to disbelieve the certificate issued by P.W.2. Only because P.W.2 is not a treated doctor, his evidence cannot be brush aside. Thus, the doctor opined that there is 30% disability to the particular limb and 10% of it has to be taken to the whole body.

21. The claimant was aged 32 years as on the date of accident as per claim petition averments and as



mentioned in the wound certificate. Hence, the relevant multiplier to be adopted is 16 as per ***Sarla Verma and Others vs. Delhi Transport Corporation and Another*** reported in ***AIR 2009 SC 3104***.

22. There is no admissible document produced by the claimant to show her actual income. Hence, the chart prepared for Lok-Adalat by the Karnataka State Legal Services Authority is to be considered to decide the notional income of the claimant. According to it, as the accident had taken place in the year 2012, the notional income of claimant be taken at ₹.6,500/- per month. Thus, claimant is entitled for compensation at $\text{₹.6,500} \times 12 \times 16 \times 10\% = \text{₹.1,24,800/-}$.

23. The Tribunal has awarded compensation to the claimant under other heads i.e., towards pain and suffering, medical expenses, attendant charges, loss of earning during treatment and loss of amenities and future unhappiness, which is proper and needs no interference.



24. Thus, the claimant is entitled for additional compensation of ₹.1,24,800/- under the head 'loss of future earning capacity'.

25. With this modification, I proceed to pass the following:

ORDER

1. Appeal filed under Section 173(1) of Motor Vehicles Act, 1988 is allowed in part.
2. Judgment and award in MVC No.1361/2012 dated 01.02.2013 on the file of FTC-I, Additional MACT, Belagavi is modified holding that the claimant is entitled for compensation of ₹.1,24,800/- along with interest at 6% per annum from date of petition till realization in addition to what has been awarded by the Tribunal.
3. The respondent-Insurer shall deposit the additional compensation with interest before



the Tribunal within 8 weeks from the date of receipt of certified copy of this judgment.

4. Draw modified award accordingly.

Sd/-
(GEETHA K.B.)
JUDGE

SH
CT-MCK
LIST NO.: 1 SL NO.: 5