

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.101426 OF 2016 (MV)

BETWEEN:

M NAGANNA @ NAGAPPA @ NAGARAJ,
S/O PAPANNA,
AGE: 48 YEARS, OCC: AGRICULTURE,
R/O HULIKERE VILLAGE, TQ. KUDLIGI,
DIST. BALLARI-583135.

...APPELLANT

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

AND:

1. C SHIVAMURTHY
S/O CHANDRASHEKARA PROP. SVMS,
AGE: MAJOR, OCC: OWNER OF BUS,
R/O: NEAR AZAD FLOOR MILL,
B.D. ROAD, CHITRADURGA-577501.
2. THE ORIENTAL INSURANCE CO. LTD.,
B.O. CHITRADURGA, SHRI SHARADA COMPLEX,
1ST FLOOR, OPP. KSRTC BUS STAND,
P.B. ROAD, CHITRADURGA-577501.
3. K N MAHENDRA S/O K NAGARAJA
AGE: 27 YEARS, OCC: DRIVER OF BUS,
R/O: BELLEKATTE VILALGE, TQ: KUDLIGI,
DIST: BALLARI-583135.

...RESPONDENTS

(BY SRI. S.S. KOLIWAD, ADVOCATE FOR R2;
NOTICE TO R1 & R3-DISPENSED WITH)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLE ACT 1988, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 16.11.2015 MADE IN MVC NO.898/2013 PASSED BY THE COURT OF THE SENIOR CIVIL JUDGE CUM MEMBER VI MACT KUDLIGI AND CONSEQUENTLY ENHANCE THE COMPENSATION AMOUNT AS CLAIMED IN THE CLAIM PETITION IN THE INTEREST OF JUSTICE AND EQUITY.

THIS MFA 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

1. This appeal is filed by the claimant under Section 173(1) of the Motor Vehicles Act, 1988 (hereinafter 'the MV Act' for short), seeking enhancement of compensation awarded by the Senior Civil Judge cum Member VI-M.A.C.T., Kudligi ('the Tribunal' for short) in M.V.C. No.898/2013 dated 16/11/2015.

2. For convenience, the parties are referred to as per their ranking before the Tribunal.

3. The facts of the case are that, on 10/12/2012, the appellant/claimant was travelling when the offending Bus No.KA-38/3994 and Lorry No.HR-55/J-3617 collided with his vehicle. As a result, the appellant/claimant sustained fracture of the clavicle, required hospitalization, surgical intervention, and follow-up treatment. Prior to the accident, the appellant was an agriculturist earning Rs.10,000/- per month and supporting his family.

4. The appellant claims that the accident occurred due to the rash and negligent driving of the drivers of the offending

vehicles, and that the respondents, being the owners and insurers, are jointly and severally liable to pay compensation.

5. After service of notice, respondent Nos.1 to 3 appeared through their counsels and filed separate objections. Respondent No.1 in his written statement denied the age, income, injuries and earnings of the claimant and further submitted that the respondent No.3-insurance company is liable to pay the compensation. Respondent No.2-the driver of the bus totally denied the petition averments and also submitted that the respondent No.3-insurance company is liable to pay the compensation. Respondent No.3 - the Insurance Company in *toto* denied the petition averments and submitted that the petition is bad for mis-joinder and non-joinder of parties and further contended that the insurance company is not liable to pay the compensation as the driver, owner and insurance company of Lorry bearing registration No.HR-55/J-3617 are proper and necessary parties and are equally responsible to pay the compensation.

6. The appellant examined herself as PW12 and the treating doctor as PW14 and marked 50 documents as per

Exs.P1 to P50. The respondents examined one witness as RW1 and filed a copy of the insurance policy as per Ex.R1.

7. The Tribunal, after considering pleadings, oral and documentary evidence, and disability certificates, awarded a total compensation of **Rs.1,70,605/-** under various heads, including pain and suffering, loss of future earning capacity, medical expenses, and other conventional heads along with interest at 6% per annum from the date of petition till its realisation. Being aggrieved by the same, the appellant filed this appeal seeking enhancement of compensation.

8. Learned counsel for the appellant contended that the Tribunal under-assessed the permanent physical disability, which as per the treating doctor is 10% to the whole body. He also contended that the Tribunal took monthly income at Rs.5,000/- instead of Rs.6,500/- applicable for the year 2012 as per the chart prepared by the Karnataka Legal Services Authority, leading to under-calculation of loss of future earning capacity and compensation for loss of income during the laid-up period was inadequately awarded considering the appellant was hospitalized and required at least three months of rest. He also

submitted that the compensation under pain and suffering, loss of amenities, and future medical expenses was also insufficient.

9. Learned counsel for the appellant further submitted that considering income at Rs.6,500/-, 10% at disability, and multiplier of 15, loss of future earning capacity comes to Rs.1,17,000/- (6500/- x 12 x 10% x 15). He further submitted that loss of income during the laid-up period should be Rs.19,500/-, loss of amenities Rs.30,000/-, and future medical expenses Rs.10,000/- along with interest at 6% per annum from the date of award until realization.

10. Learned counsel for the respondent-Insurance Company contended that the Tribunal correctly assessed compensation taking the monthly income of Rs.5,000/- and 10% disability. No enhancement was warranted and the laid-up period could not be separately claimed.

11. Heard the learned counsel for the parties and perused the records.

12. PW14, the treating doctor, has opined regarding the nature of injury and treatment. It is evident that the appellant

suffered grievous injury, required hospitalization and surgery, and was incapacitated for a significant period.

13. On consideration of evidence and applicable principles under the MV Act, monthly income has to be taken at Rs.6,500/-, disability at 10%, and multiplier 15. Hence, the enhanced compensation comes to **Rs.1,17,000/-** ($6,500 \times 12 \times 10\% \times 15$). The appellant is entitled for loss of income during laid-up period as the appellant was incapacitated for approximately three months. Hence, the enhanced compensation of **Rs.19,500/-** ($6,500 \times 3$) has to be taken. There is need to warrant interference under the head of loss of Amenities, which the Tribunal has failed to consider, which accordingly has to be Rs.30,000/-. Compensation under the heads of pain and suffering, medical expenses, special diet, attendant & conveyance charges, Tribunal's award is retained as just and reasonable.

14. For the aforesaid, the compensation is re-assessed as follows:

Head of Compensation	Tribunal Award (Rs.)	Enhanced Award (Rs.)
Loss of Future Earning Capacity	90,000	1,17,000
Loss of Income During Laid-up Period	10,000	19,500

Head of Compensation	Tribunal Award (Rs.)	Enhanced Award (Rs.)
Pain and Suffering	30,000	10,000
Loss of Amenities	Nil	30,000
Medical Expenses	15,605	15,605
Food & Nourishment	10,000	10,000
Loss of Attendant Charges	5,000	5,000
Loss of Future Medical Expenses	10,000	10,000
Total	1,70,605	2,17,105

15. Therefore, the claimant is entitled for total compensation of **Rs.2,17,105/-** as against **Rs.1,70,605/-** awarded by the Tribunal, enhancing the compensation to **Rs.46,500/-** with interest at the rate of 6% per annum from the date of petition till realisation.

ORDER

- (i) The appeal is ***allowed-in-part***.
- (ii) The award dated 16/11/2015 in M.V.C. No.898/2013 is ***modified***. The appellant is entitled to total compensation of **Rs.2,17,105/-** as against Rs.1,70,605/- awarded by the Tribunal. The enhanced compensation of **Rs.46,500/-** shall carry interest at 6% per annum from the date of petition till realisation.
- (iii) Respondents are jointly and severally liable to pay the enhanced amount.

(iv) All other terms of the Tribunal's award remain unchanged.

(v) No order as to costs.

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

KGK,CT:VP