



CNR: KAHC010002562026

NC: 2026:KHC:44523
MFA No. 60 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 60 OF 2026 (MV-I)

BETWEEN:

XAVIER RAJ D'SOUZA
AGED ABOUT 57 YEARS,
S/O. DOLPHIE D' SOUZA,
R/O. 6-80C, CASTLE BEHIND
BETHEL CHURCH, BAILOOR,
76 BADAGABETTU,
UDUPI- 576 101.

...APPELLANT

(BY SRI. H PAVANA CHANDRA SHETTY, ADVOCATE)

AND:

1. KIRAN ANANT NAIK
AGED ABOUT 38 YEARS,
S/O. ANANT NAIK,
R/O. SAKALBENA AVERSA,
AVERSA, UTTARA KANNADA- 581 316.
2. THE DIVISIONAL MANAGER,
SHRI RAM GENERAL INS. CO. LTD.,
DIVISIONAL OFFICE,
D.NO.14-2-101/6, 3RD FLOOR,
PLAZA CHAMBERS, BALMATT ROAD,
MANGALORE- 575 001.

...RESPONDENTS

(BY SRI MALLIKARJUNA REDDY N A, ADVOCATE FOR
SRI B PRADEEP, ADVOCATE FOR R2
NOTICE TO R1 IS D/W)

Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI
Location: HIGH
COURT OF
KARNATAKA



CNR: KAHC010002562026

NC: 2026:KHC:44523
MFA No. 60 of 2026

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT. 04.11.2025 PASSED IN MVC NO. 41/2024 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND CJM, ADDITIONAL MACT, AND CJM, UDUPI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed by the appellant/claimant seeking enhancement of compensation awarded in judgment and award dated 04.11.2025 passed in MVC No.41/2024 by the Prl.Senior Civil Judge and MACT, Udupi.

2. Even though the appeal is listed today for admission, it is taken up for disposal with the consent of learned counsel for appellant and learned counsel for respondent No.2/insurer.

3. The appellant made a claim petition praying to award compensation for the injuries sustained by him in a road traffic accident occurred on 17.10.2023 contending that the accident occurred due to rash and negligent



CNR: KAHC010002562026

driving of the driver of goods vehicle bearing Regn.No.KA-28-D-3950. The Tribunal after recording the evidence of the parties, appreciating the evidence assessed the compensation and awarded compensation under various heads as under:

Sl.No.	Heads	Amount in (Rs.)
01.	Pain and suffering	50,000/-
02.	Medical expenses	1,97,870/-
03.	Loss of income during laid up period	16,000/-
04.	Food, conveyance and attendant charges expenses	10,000/-
05.	Disability	2,11,200/-
06.	Future medical expenses	1,25,000/-
	Total	6,10,070/-

4. The Tribunal also awarded interest @ 6% p.a. from the date of petition till realization and directed the respondent No.2/insurer to deposit the award amount with interest. The claimant seeking enhancement of compensation has filed the present appeal.

5. Heard learned counsel for the appellant and learned counsel for respondent No.2/insurer.



CNR: KAHC010002562026

6. Learned counsel for appellant would contend that claimant has sustained three injuries as per Ex.P4-wound certificate. PW.4-Doctor who has examined the claimant has stated that he has sustained right acetabulum fracture with posterior distraction of the hip joint and right 2nd 3rd and 4th metatarsal fracture. He further submits that Doctor who examined the claimant has assessed his disability and he has stated 40% disability to the right lower limb locomotor function permanently and Tribunal has erred in taking the disability at 10%. The Tribunal has taken the notional income at Rs.16,000/- but as per the chart prepared by the Karnataka State Legal Services Authority, the notional income for the year 2023 is fixed at Rs.16,250/-. The compensation awarded towards pain and suffering is on lower side. The Tribunal has not awarded loss of amenities. The claimant has to take rest atleast for four months considering the injuries and the loss of income during laid up period for one month taken by the Tribunal is on lower side. The claimant has to



CNR: KAHC010002562026

undergo hip replacement and the cost of the same is Rs.2,00,000/- and the Tribunal has awarded only Rs.1,25,000/-. With this he prayed to allow the appeal.

7. Learned counsel for respondent No.2/insurer would contend that the Tribunal has taken disability as per the evidence of PW.2 – Doctor. The compensation awarded by the Tribunal on all heads is just and proper and there are no grounds for enhancement.

8. Having heard the learned counsels, the Court has perused the judgment and award.

9. As per Ex.P14 – wound certificate the claimant has sustained the following injuries:

- Swelling and tenderness over the right hip joint – suggestive of right acetabular posterior wall fracture dislocation.
- Swelling over the right foot measuring 10 x 4 cm. With contusion suggestive of right 2nd 3rd, 4th metatarsal fracture.



CNR: KAHC010002562026

- A laceration wound measuring 6 x 2 cm over the right forearm on extensor aspect with bleeding. The injury No.1 and 2 are grievous in nature and injury No.3 is simple in nature.

10. PW.4 – Doctor has stated that the claimant has sustained right acetabulum fracture with posterior distraction of the hip joint and right 2nd 3rd 4th metatarsal fracture. Considering the said injuries sustained by the claimant, the compensation awarded by the Tribunal towards pain and suffering in a sum of Rs.50,000/- requires to be enhanced to Rs.90,000/-. The claimant is entitled to loss of amenities in a sum of Rs.45,000/-.

11. PW.2 – Doctor has assessed the disability and stated that claimant has 40% disability to the left lower limb and the Tribunal has taken the disability at 10%. The disability to the whole body is to be taken at 1/3rd of the disability to the limb and therefore, the disability is to be taken at 13% as against 10% taken by the Tribunal.



CNR: KAHC010002562026

The Tribunal has taken notional income at Rs.16,000/-. But as per the chart prepared by the Karnataka State Legal Services Authority, the notional income fixed for the year 2023 is Rs.16,250/- and the said income is to be taken. The Tribunal has rightly applied multiplier '11'. In view of the above, the loss of future income is calculated as under:

$$\text{Rs.16,250} \times 12 \times 11 \times 13 \% = 2,78,850/-$$

12. The claimant has been admitted in the hospital for a period of 11 days. Therefore, the claimant is entitled to attendant and conveyance charges in a sum of Rs.11,000/- (Rs.1,000 x 11 days) as against Rs.10,000/- awarded by the Tribunal. Considering the injuries noted supra, the claimant has to take rest atleast for four months and therefore, he is entitled loss of income during laid up period in a sum of Rs.65,000/- as against Rs.16,000/- awarded by the Tribunal. The Tribunal has rightly awarded medical expenses.



CNR: KAHC010002562026

13. PW.2 – Doctor has stated that the claimant has to undergo hip replacement and the cost of the same is around Rs.2,00,000/-. The Tribunal has awarded Rs.1,25,000/-. Considering the evidence of the Doctor, the claimant is entitled to future medical expenses of Rs.1,50,000/- as against Rs.1,25,000/- awarded by the Tribunal.

14. In view of the above, the claimant is entitled to compensation under various heads as under:

Sl.No.	Heads	Amount in (Rs.)
01.	Pain and suffering	90,000/-
02.	Loss of amenities	45,000/-
03.	Loss of income during laid up period	65,000/-
04.	Medical expenses	1,97,870/-
05.	Attendant and conveyance charges	11,000/-
06.	Loss of future income	2,78,850/-
07.	Future medical expenses	1,50,000/-
	Total	8,37,720/-

15. Considering the above aspects, the claimant is entitled to total compensation of Rs.8,37,720/- as against Rs.6,10,070/- with interest @ 6% p.a. from the date of



CNR: KAHC010002562026

petition till realization. Consequently, the claimant is entitled to enhanced compensation of Rs.2,27,650/- with interest @ 6% p.a. from the date of petition till realization. The claimant is not entitled to interest for enhanced future medical expenses. Respondent No.2/insurer is liable to pay the said enhanced compensation with interest.

16. In view of the above, the following:

ORDER

- i) The appeal is allowed in part.
- ii) The appellant/claimant is entitled to enhanced compensation of Rs.2,27,650/- with interest @ 6% p.a. on Rs.2,02,650/- from the date of petition till realization.
- iii) Respondent No.2/insurer shall deposit the enhanced compensation with interest before the Tribunal within a period of six weeks from this day.



CNR: KAHC010002562026

NC: 2026:KHC:44523
MFA No. 60 of 2026

- iv) Appellant is entitled to release of entire enhanced compensation.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

DKB
List No.: 1 Sl No.: 36
Ct.sm