



CNR: KAHC010007312024

NC: 2026:KHC:44112
MFA No. 106 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO.106 OF 2024 (MV-I)

BETWEEN:

SRI. MANJUNATHA POOJARY,
AGED ABOUT 40 YEARS,
S/O NARASIMHA POOJARY,
R/O KATTEMANE CHANTHARU VILLAGE,
BRAHMAVARA TALUK,
UDUPI DISTRICT.

...APPELLANT

(BY SRI. MOHAMMED ANFAL, ADVOCATE FOR
SRI. K. PRASANNA SHETTY, ADVOCATE)

AND:

1. SHRILATHA G ACHARYA,
W/O K. GANESH ACHARYA,
AGED ABOUT 42 YEARS,
R/O 467/3, SHRI GAYATHRI,
KODI ROAD, KUNDAPURA,
HANGLOOR, KUNDAPURA TALUK,
UDUPI DISTRICT.
2. GANESH KUMAR K.G.,
AGED ABOUT 50 YEARS,
S/O GOPIKRISHNA ACHARYA,
R/O 467/3, SHRI GAYATHRI
KODI ROAD, KUNDAPURA,
HANGLOORU,
KUNDAPURA TALUK,
UDUPI DISTRICT.
3. UNIVERSAL SOMPO GENERAL
INSURANCE COMPANY LTD.,
1ST FLOOR, CITY TRADE CENTER,

Digitally
signed by
REKHA R
Location:
High Court
of
Karnataka



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OPP. CITY HOSPITAL,
JAPTI MALLIKATTE,
KADRI, MANGALORE,
KARNATAKA - 575 003.

...RESPONDENTS

(BY SRI. S.V. HEGDE MULKHAND, ADVOCATE FOR R3,
VIDE ORDER DATED 15.04.2024 NOTICE TO R1 AND
R2 ARE DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:25.11.2023
PASSED IN MVC NO.425/2021 ON THE FILE OF THE SENIOR
CIVIL JUDGE AND ADDITIONAL MACT, KUNDAPURA, 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 T.M.NADAF

ORAL JUDGMENT

This appeal by the claimant seeking for enhancement
of compensation arising out of judgment and award dated
25.11.2023 in MVC No.425/2021 passed by the Senior
Civil Judge and Addl. MACT, at Kundapura¹.

2. The parties are referred to as per their ranking
before the Tribunal.

¹ Hereinafter referred to as 'Tribunal' for short



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3. Facts germane to file this appeal are as under:

In an accident occurred on 02.02.2021, the claimant aged 38 years, suffered grievous injuries to the head and other parts of the body including fractures, which reads as under:

1. Abrasion, reddish, measuring 0.5 x 0.5 cm present over the nose, 0.5 cm below root of nose,
2. Abrasion, reddish, measuring 4 x 2.5 cm present over the right cheek, starting 5 cm in front of right tragus,
3. Abrasion, reddish, measuring 4 x 3 cm present over the outer aspect of right arm extending to back of right shoulder, starting 2 cm behind right shoulder tip,
4. Grazed abrasion, reddish, measuring 8 x 6 cm present over right the outer aspect of right arm, extending to back of right shoulder, starting 2 cm behind right shoulder tip,
5. Grazed abrasion, reddish, measuring 8 x 6 cm present over right flank, starting 2 cm away from right anterior superior iliac spine,
6. Contusion, reddish, measuring 7 x 5 cm present over left flank, starting 1.5 cm behind left anterior iliac spine,
7. Abrasion, reddish, measuring 2 x 1cm present over the dorsum of right hand, situated 4 cm below wrist joint,
8. Abraded contusion, reddish, measuring 4 x 1 cm present over inner aspect of left leg, situated 1.5 cm below knee joint,



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9. Abrasion, reddish, measuring 2 x 2 cm present over dorsum of right foot, 5 cm in front of ankle joint,
10. Laceration, measuring 2 x 1 cm x muscle deep present over upper eyelid, 2 cm above inner canthus of eye,
11. Laceration, measuring 2 x 0.5 cm x muscle deep present over left upper eyelid. 2 cm above outer canthus of left eye,
12. Laceration, measuring 2 x 0.5 cm X subcutaneous tissue deep present over left side of face, 1.5 cm away from outer canthus of left eye,
13. Laceration, irregular shaped, measuring 6x3 cm x subcutaneous tissue deep over the back of head on left side, starting 4 cm above and 1 cm inner to left mastoid process,
14. Abrasion, reddish, measuring 4x0.5 present over the forehead on left side, cm
15. Swelling present over left side of head.

and other injuries all over the body. The doctor who has been examined as PW2, has stated that the Neuro-cognitive disability is 35.6% along with other limb disability at 50%. The Tribunal has considered the total body disability at 30% and after adding 40% towards 'future prospectus' to the existing income of Rs.14,898/- per month, awarded total compensation of Rs.13,82,588/-



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under various heads. It is this judgment and award is called in question in this appeal seeking for enhancement.

4. Heard Sri.Mohammed Anfal, learned counsel appearing for Sri.K.Prasanna Shetty, learned counsel for the appellant and Sri.S.V.Hegde Mulkhand, learned counsel appearing for the respondent No.3/insurer. Notice of this appeal to respondent Nos.1 and 2 is dispensed with vide order dated 15.04.2024.

5. Sri.Anfal, with all vehemence submits that the disability of 35.6% is Neuro-cognitive and the limb disability is total 50%. The Tribunal ought to have considered the limb disability at 1/3rd of 50% and must have retained 35.6% towards Neuro-cognitive disability. The Tribunal has taken 1/3rd of total disability both Neuro-cognitive and limb disability at 30% and awarded compensation, however, taking the income as per the Minimum Wages Act, 1948. Admittedly, the year of accident was 2021 and as per the Chart prepared by the



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Karnataka State Legal Services Authority, the income for the year 2021 for settling the matters before the Lok Adalat is fixed at Rs.15,000/-. Accordingly, the said amount should have been considered in the absence of any document to that effect.

6. Further the compensation awarded under other heads, except medical expenses, is on the lower side and requires reconsideration.

7. Per contra, Sri.Hegde Mulkhand, argued in support of the judgment and award, but he is not in serious dispute with regard to the disability suffered to the head to the extent of 35.6% Neuro-cognitive disability.

8. Having considered the rival submissions, this Court is of the opinion that if the disability is considered at 60% instead of 30% i.e., 35.6% + 15% (reason being the disability of 35.6% was cut in respect of Neuro-cognitive disability, which affects whole body) and income at



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Rs.15,000/- instead of Rs.14,898/- considered by the Tribunal, it would meet the ends of justice.

9. So far as compensation under other heads except medical expenses is concerned, the compensation awarded under other heads appears to be meager and requires proper compensation to fit in within the four of concept of just compensation. Accordingly, this Court proceeds to reassess the compensation as under:

Sl. No.	Particulars	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Loss of income due to disability (Rs.15,000/- + 40% x 12 x 15 x 50%)	Rs.11,26,278/-	Rs.18,90,000/-
2	Pain and suffering	Rs.50,000/-	Rs.80,000/-
3	Medical expenses	Rs.1,21,616/-	Rs.1,21,616/-
4	Conveyance, diet and attendants charges	Rs.20,000/-	Rs.40,000/-
5	Loss of income during laid up period (Rs.15,000/- x 4)	Rs.44,000/-	Rs.60,000/-
6	Loss of amenities	Rs.20,000/-	Rs.50,000/-
	Total	Rs.13,82,588/-	Rs.22,41,616/-

10. Accordingly, the claimant is entitled for enhanced compensation of Rs.8,59,028/- which is rounded



off to **Rs.8,59,500/-**, which shall carry interest @ 6% p.a. from the date of petition till realisation.

11. For the reasons aforesaid, this Court proceeds to pass the following:

ORDER

- (i) The appeal is ***allowed in part.***
- (ii) The judgment and award dated 25.11.2023 in MVC No.425/2021 passed by the Senior Civil Judge and Addl. MACT, at Kundapura, is modified and the compensation is enhanced by Rs.8,59,500/- along with interest stated supra from the date of petition till realisation.
- (iii) The respondent No.3/insurer shall deposit the entire enhanced compensation along with interest stated supra within a period of six weeks from the date of petition till realisation before the concerned Tribunal.



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- (iv) Upon deposit, 50% of the compensation shall be released in favour of the claimant on proper identification and balance 50% of compensation shall be invested in any interest bearing FDR with any Nationalised Bank for a period of 5 years.
- (v) The bank shall not permit any loan on Fixed Deposit without there being any order of the Tribunal/Court.
- (vi) Trial Court Records received, if any, shall be transmitted to the Tribunal forthwith without causing any delay.
- (vii) No order as to costs.

Sd/-
(T.M.NADAF)
JUDGE

DR
List No.: 1 Sl No.: 14
ct-vn