



CNR: KAHC010039182024

NC: 2026:KHC:44111
MFA No. 618 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. 618 OF 2024 (MV-I)

BETWEEN:

SRI. MANJUNATHA. H. M.
S/O MANATHESHA,
AGED ABOUT 32 YEARS,
R/AT HERENALLURU VILLAGE,
KADUR TALUK,
CHIKKAMGALORE DISTRICT

...APPELLANT

(BY SRI. SATHISHA T., ADVOCATE)

AND:

1. SRI. MANJUNATHA. A. R.,
S/O RAJANNA,
AGED IN MAJOR,
R/O GOVT QUARTERS NO.706
TYPE-41G C CRPF CAMPUS,
YELAHANKA, BENGALURU - 560 064.
2. THE MANAGER,
NATIONAL INSURANCE COMPANY LTD.,
NO.144, 2ND FLOOR,
SHUBHRAM COMPLEX,
M.G. ROAD,
BENGALURU - 560 001.

NOW REPRESENTED BY
THE REGIONAL MANAGER,
NATIONAL INSURANCE COMPANY LTD.,
REGIONAL OFFICE NO.144,
2ND FLOOR, SUBHRAM COMPLEX,

Digitally
signed by
REKHA R
Location:
High Court
of
Karnataka



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M.G. ROAD,
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI. RAVISH BENNI, ADVOCATE FOR R2,
VIDE ORDER DATED 05.02.2026 NOTICE TO R1 IS
DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:10.08.2023
PASSED IN MVC NO.1976/2021 ON THE FILE OF THE VIII
ADDITIONAL SCJ AND ACMM, MEMBER, MACT, BENGALURU,
SCCH-5, 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 as well as questioning the liability fixed at
20% on him arising out of judgment and award dated
10.08.2023 in MVC No.1976/2021 passed by the VIII
Additional Small Causes Judge and the Motor Accident
Claims Tribunal (SCCH-5), at Bengaluru¹.

¹ Hereinafter referred to as 'Tribunal' for short



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

3. Facts germane to file the present appeal are as under:

In an accident occurred on 03.03.2021 at about 11.00 p.m. the claimant being a pedestrian, while walking on the road near Bettadahalli route, Tarikere towards Hirenalluru, Siddeshwara. When reached near Siddeshwara Temple, a Tata Indigo Car bearing registration No.KA-04-MF-235 came in a rash and negligent manner being driven by its driver dashed against him resulting in grievous injuries.

4. The claimant has suffered fracture of both the bones of lower 3rd of right leg. He was an inpatient for a total period of 9 days and underwent surgery for inserting implants. The doctor who has been examined as PW2, has stated that the limb disability is 40% and whole body disability at 20%. The Tribunal having considered the fact



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that the fracture of the fibula is united and whereas Tibia is not united and further considering the age and avocation of the claimant as a Mason and considering the fact that the doctor who has been examined, was not a treated doctor, taken the disability at 15% and awarded total compensation of Rs.7,72,936/-. The Tribunal has considered the income at Rs.15,000/- per month for the year of accident i.e., 2021 as per the Chart prepared by Karnataka State Legal Services Authority for settling the matters before the Lok Adalth.

5. The Tribunal having considered the cross examination of claimant, wherein he admits that on his left side there is 10' feet road and further admission that there is kacha road at about 6 feet on his left side and he was moving on the road during night hours using mobile torch, the accident had taken place, has come to the conclusion that the claimant has also contributed negligence @ 20% to the accident and fastened 20% liability on the claimant.



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It is this finding of negligence as well as seeking enhancement of compensation, the claimant is before this Court in this appeal.

6. Heard Sri.Sathisha T, learned counsel appearing for the appellant and Sri.Ravisha Benni, learned counsel appearing for the respondent No.2.

7. Sri.Sathisha T, with all vehemence submits that though the claimant was walking on the road, the driver of the car during the night hours should have been more circumspect and cautious on use of road by others though visible in the lights of the car, however, not taken any care to avoid the accident. In these circumstances, the entire contributory negligence fastened on the claimant requires to be set aside. He further submits that the Tribunal in the presence of medical evidence regarding 20% disability to the whole body had considered the same at 15%, which is against the evidence of the doctor and awarded meager compensation under 'loss of future income'. He further



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submits that the entire compensation under other heads, except medical expenses, is on the lower side and requires adequate compensation and sought to enhance the compensation and sought to set aside the finding of the Tribunal.

8. Refuting the submissions, Sri.Ravish Benny, learned counsel for the respondent No.2/insurer with all vehemence submits that the Tribunal having considered that the doctor was not a treated doctor instead of considering the 1/3rd of 40% at 13%, has considered the same at 15%. In that view of the matter, there is no scope of any enhancement in the compensation awarded under the head 'loss of future income'.

9. So far as compensation awarded under other heads, Sri.Benni with all fairness submits that except medical expenses, reasonable compensation may be considered in respect of other heads stated supra.



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10. So far as the contention of Sri.Sathisha T on contributory negligence, Sri.Ravish Benni with all vehemence submits that, the claimant ought not to have taken risk of walking on the road instead of walking on the kaccha road, which is clearly available as per his admission in the cross examination. Admittedly, the accident has occurred at 11.00 p.m. In that view of the matter, the claimant has taken the risk of walking on the road and invited an unfortunate accident, in that regard, he has contributed negligence towards the accident. The Tribunal, however, magnanimously taken only 20% instead of 50%. In that regard, there is no scope for interfering with the finding of the Tribunal on the contributory negligence fastened on the claimant.

11. Having considered the rival submissions, this Court has perused the entire appeal papers along with Trial Court Record. The points that would arise for consideration are as under:



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(i) Whether the Tribunal is right in fastening 20% contributory negligence on the claimant?

(ii) Whether the claimant has made out any case for enhancement?

12. The answer of the Court on both the Points is partly affirmative for the following reasons.

13. The sketch produced in the case along with Ex.P-3 - photographs of spot, coupled with the admission of the claimant, clearly shows that the accident has occurred on the portion of road and not on the kaccha Road i.e., extreme left side of the road. As seen from the photographs plenty of mud road is available for walking. However, the fact remains that the driver of the vehicle could have been more circumspect and cautious while driving the vehicle in night. The same is lacking in the case on hand. However, it cannot be lost sight that the claimant has taken risk of walking on the road instead of



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walking on the mud road available along the side of the tar road. In that view of the matter, if the contributory negligence fastened is reduced to 10% instead of 20%, the same would meet the ends of justice. Accordingly, the points are answered partly in affirmative.

14. So far as the enhancement of compensation is concerned, this Court finds force in the submission of Ravish Benni, as the doctor who has been examined as PW2, is a known doctor to state on the disability. The Tribunal having considered this aspect of the matter that the doctor who has been examined is not a treated doctor, considered the disability at 15%, which is just and proper does not require any interference.

15. So far as compensation awarded under the other heads, when compared to injuries, disability resulted, medical treatment taken and medical expenses incurred requires reconsideration. Accordingly, this Court proceeds to reassess the compensation as follows:



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Sl. No.	Particulars	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Loss of future income	Rs.4,59,000/-	Rs.4,59,000/-
2	Pain and sufferings	Rs.15,000/-	Rs.50,000/-
3	Conveyance, nourishment and attendant charges	Rs.15,000/-	Rs.30,000/-
4	Medical expenses	Rs.2,53,936/-	Rs.2,53,936/-
5	Loss of amenities in life	Rs.15,000/-	Rs.50,000/-
6	Loss of income during laid up period (Rs.15,000/- x 4 months)	Rs.15,000/-	Rs.60,000/-
	Total	Rs.7,72,936/-	Rs.9,02,936/-

16. Accordingly, the claimant is entitled for enhanced compensation of Rs.1,30,000/-, which shall carry interest @ 6% p.a. from the date of petition till realisation.

17. 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 10.08.2023 in MVC No.1976/2021 passed by the VIII Additional Small Causes Judge and the Motor Accident Claims Tribunal (SCCH-5) at Bengaluru, is modified, the finding of the



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Tribunal fastening 20% contributory negligence on the claimant is reduced to 10% and the compensation is enhanced by another sum of Rs.1,30,000/-, which shall carry @ 6% p.a. from the date of petition till realisation.

- (iii) The respondent No.2/insurer shall deposit 90% of the enhanced compensation along with interest stated supra within six weeks from the date of receipt of copy of this order, before the concerned Tribunal.
- (iv) The respondent No.2/insurer is further directed to deposit the balance 10% of the compensation awarded by the Tribunal in view of reduction in contributory negligence from 20% to 10% within six weeks from the date of receipt of copy of this order.



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- (v) On deposit, the entire amount shall be released in favour of claimant on proper identification.
- (vi) Registry is directed to transmit the Trial Court Records, forthwith without causing any delay.

Sd/-
(T.M.NADAF)
JUDGE

DR
List No.: 1 Sl No.: 15
ct-vn