



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.2919/2018 (MV-I)

BETWEEN:

SRI. P. KARUNAKARAN
S/O LATE PANDU
AGED ABOUT 45 YEARS
R/AT NO.34/2
KADIRANA PALLYAM
INDIRA NAGAR
BANGALORE-38.

...APPELLANT

(BY SRI. N.R. RANGE GOWDA, ADV.,)

AND:

1. SRI. SHIVANNA
S/O MARIYAPPA
MUTHKUR, HOSKOTE TALUK
MEDIMALLASANDRA POST
BENGALURU-67.
2. THE REGIONAL MANAGER
M/S ORIENTAL INSURANCE CO., LTD.,
THIRD PARTY HUBB, NO.40/44
LEO SHOPPING COMPLEX
RESIDENCY ROAD, BANGALORE.

...RESPONDENTS

(BY SRI. C.R. RAVISHANKAR, ADV., FOR R2
V/O DTD:29.06.21, NOTICE TO R1 IS D/W)

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by RUPA V
Location: HIGH
COURT OF
KARNATAKA



THIS MFA IS FILED U/S 173(1) OF MV ACT, 1988, AGAINST THE JUDGMENT AND AWARD DATED:08.01.2018 PASSED IN MVC NO.3864/2015 ON THE FILE OF THE XXII ADDITIONAL SMALL CAUSES JUDGE & 20TH ADDITIONAL CHIEF METROPOLITAN MAGISTRATE & MACT, BENGALURU (SCCH-24), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL)

This miscellaneous first appeal is filed challenging the judgment and award dated 08.01.2018 passed in M.V.C.No.3864/2015 passed by the XXII Additional Small Causes Judge and XX A.C.M.M., and Member MACT., Bengaluru (for short '***the Tribunal***') seeking for enhancement of compensation.

2. The brief facts leading to filing of this appeal are that the appellant-claimant filed a claim petition under Section 166 of the Motor Vehicle Act, 1988, (for short,



'the MV Act') seeking compensation before the Tribunal on the ground that the appellant, on 03.08.2015, was proceeding on the motorcycle bearing Reg.No.KA-03-HE-8674 from Bengaluru to Bodhanahosahalli in a moderate speed and the appellant was turning his motorcycle towards right side by showing right indicator, at that time, the rider of another motorcycle bearing Reg.No.KA-53-EA-2048 came in a rash and negligent manner and dashed against the claimant's motorcycle, as a result the injured-claimant lost the balance, fell down and sustained grievous injury. The claimant was provided with treatment as an in-patient and sustained disability. Hence, he sought to allow the claim petition. The respondents opposed the claim petition by denying the aspect of negligence, liability and claim for compensation. The Tribunal framed the points for consideration, recorded the evidence of the parties. The injured-claimant examined himself as PW1 and also examined two other witnesses as PWs2 and 3 and got marked the documents as per Exs.P1 to P33. Respondents



examined RW1 and got marked Ex.R1. The Tribunal, on appreciation of oral and documentary evidence, awarded total compensation of Rs.13,47,600/- with interest at 8% p.a. from the date of petition till realisation of the amount by directing the respondent No.2-Insurance Company to pay the compensation. The injured-claimant is seeking for higher compensation in this appeal.

3. Sri.N.R.Range Gowda, learned counsel for the appellant-claimant submits that the Tribunal has committed a grave error in assessing the income of the injured at Rs.20,000/- per month by ignoring the evidence on record. It is submitted that the appellant's right leg below the knee is amputated and as per the evidence of the doctor, the disability is 70%, however the tribunal has wrongly assessed the disability at 20%. It is further submitted that the appellant is unable to carry out any work, hence, he would be entitled to compensation under the head of loss of future prospects in view of the disability sustained and award of compensation by the Tribunal



under all other heads is also required to be enhanced appropriately by allowing the appeal. In support of his contention, he has relied on the decision in the case of ***Syed Sadiq and Others vs. Divisional Manager, United India Insurance Company Limited¹***.

4. *Per contra*, Sri.C.R.Ravishankar, learned counsel for respondent No.2-Insurance Company supports the impugned judgment and award of the Tribunal and submits that the Tribunal, considering the documentary evidence and bank statement, has assessed the income of the appellant-claimant at Rs.20,000/- per month and the same is required to be retained. It is submitted that the Tribunal has rightly assessed the disability at 20% by approximately considering 1/3rd of the disability assessed by the doctor and awarded just compensation. Hence, he seeks to dismiss the appeal.

5. We have heard the arguments of the learned counsel for the appellant, learned counsel for the

¹ (2014) 2 SCC 735



respondent No.2 and meticulously perused the material available on record including Tribunal records.

6. The only point that would arise for consideration in this appeal is:

"Whether the impugned judgment and award passed by the Tribunal calls for any interference?"

7. The above point is answered in the affirmative for the following reasons:

8. The material on record indicate that the appellant-injured was proceeding on the motorcycle bearing Reg.No.KA-03-HE-8674 from Bengaluru to Bodhanahosahalli in a moderate speed and the appellant was turning his motorcycle towards right side by showing right indicator, at that time, the rider of another motorcycle bearing Reg.No.KA-53-EA-2048 came in a rash and negligent manner and dashed against the appellant's motorcycle, as a result the appellant lost the balance, fell



down and sustained grievous injury. The appellant was provided treatment in Vydehi Hospital at Whitefield, Bengaluru and Hosmat Hospital, Bengaluru. The appellant was in-patient from 04.08.2015 to 24.08.2015 and he underwent surgery. In order to prove the averments made in the claim petition, the appellant-injured has examined himself as PW1. Dr.Krishan Prasad who has been examined as PW2 has assessed the disability of the appellant-injured at 70%. The records also indicate that the right leg below knee was amputated and the appellant has also sustained number of fractures. The appellant has deposed that he was working as Pattern Master in Garments Factory and he used to earn Rs.40,000/- per month as salary. In order to substantiate his vocation and income, the appellant himself deposed before Tribunal as PW1 and also examined Sri.Rakesh, HR Manager of a company where the injured was working, as PW3. The appellant also got marked Ex.P11 - ID card of Turquoise and Gold apparels Pvt. Ltd., Ex.P12 - Offer Letter, Ex.P13 -



Reliving Letter, Ex.P14 - two pay slips, Ex.P15 - Form No.16 for the Assessment Year 2012-13, 2013-14 and 2015-16 and Ex.P16 - Bank Account Statement. The oral and documentary evidence on record indicates that the appellant, at the time of accident, was drawing Rs.40,000/- per month as salary from his employer.

9. The oral evidence of Dr.Krishan Prasad – PW2 as well as other medical records at Exs.P5, P9, P20 and P24 clearly indicate that the appellant's right leg below the knee was amputated and he sustained other fractures as well as grievous injuries in the aforesaid road accident. Considering the nature of vocation, age of the injured as 42 years at the time of accident, we are of the view that the Tribunal has grossly erred in assessing the disability at 20%. On re-appreciation of oral and documentary evidence on record and also keeping in mind the appropriate schedule to the Employees Compensation Act, 1923, it would be appropriate to assess the functional disability of the appellant-injured at 60% for the whole



body for the purpose of determination of compensation. Having re-assessed the income and disability, we are of the considered view that the appellant would be entitled to addition of 25% of the assessed income towards the loss of future prospects. Thus, the annual income would be $\text{Rs.}40,000 \times 12 + 25\% = \text{Rs.}6,00,000/-$. The accident is of the year 2015 and considering the appropriate liability of income tax component on the assessed income, we are of the view that the same needs to be calculated and deducted from the annual income as follows:

Particulars	Income tax	Total (Rs.)
Gross annual income		6,00,000
IT upto Rs.2,50,000	Nil	
IT 2,50,000 to 5,00,000 – 10%	25,000	
IT 5,00,000 to 10,00,000 – 20%		
From 5,00,000 to 6,00,000 i.e., for Rs.1,00,000	20,000	
Less: Income Tax		45,000
Total Income after deducting Tax		5,55,000



10. The appellant was aged about 42 years as on the date of accident, hence, the appropriate multiplier is 14, which has been rightly considered by the Tribunal. Hence, the compensation under the head of loss of future income due to disability is re-assessed as under:

$$\text{Rs.}5,55,000 \times 14 \times 60\% = \textbf{Rs.46,62,000/-}.$$

11. The Tribunal has erred in awarding lesser compensation under the head of pain and suffering and loss of amenities which are required to be enhanced appropriately by considering the fact that the deceased was in-patient for a period of 20 days and underwent surgery and as per the doctor's evidence, the appellant is required minimum six (06) months' time to recover from the injuries suffered. Hence, the compensation on the aforesaid heads is enhanced from Rs.50,000/- to **Rs.1,00,000/-** under each of the said heads referred supra. The compensation awarded by the Tribunal under other heads remains unaltered. For the preceding analysis, the compensation is re-assessed as under:



HEADS	AMOUNT (in Rs.)
Pain & suffering	1,00,000
Medical expenses	2,35,561
Attendant charges, food, nourishment and conveyance charges	60,000
Loss of income during treatment period	80,000
Loss of future income due to disability	46,62,000
Future medical expenses	2,00,000
Loss of amenities of life	1,00,000
Total	54,37,561
Rounded off to	54,37,600

Thus, the appellant-claimant shall be entitled to total compensation of **Rs.54,37,600/-** as against Rs.13,47,600/- awarded by the Tribunal.

12. In the result, we proceed to pass the following:

ORDER

- a) The appeal is ***allowed in part.***
- b) The impugned judgment and award dated 08.01.2018 passed in M.V.C.No.3864/2015 passed by the XXII Additional Small Causes Judge and XX A.C.M.M., and Member MACT., Bengaluru is modified to an extent that the



appellant-claimant would be entitled to total compensation of **Rs.54,37,600/-** as against Rs.13,47,600/- awarded by the Tribunal.

- c) The enhanced compensation shall carry interest at the rate of 6% p.a. from the date of petition till realisation.
- d) The respondent-Insurance Company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of six weeks from the date of receipt of the certified copy of this judgment.
- e) The rest of the judgment and award of the Tribunal with respect to apportionment, deposit and release shall remain unaltered.
- f) Registry shall transmit the records to the Tribunal forthwith.
- g) Draw the modified award accordingly.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE