



CNR: KAH010119512025

NC: 2026:KHC:55217
MFA No. 1335 of 2025
C/W MFA No. 796 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 1335 OF 2025 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 796 OF 2025 (MV-I)

IN MFA No. 1335/2025

BETWEEN:

SURESH NAIK
AGED ABOUT 47 YEARS,
S/O SRI. APPU NAIK,
R/O. H. NO.2-20, NEAR PATEL HOUSE,
MOODU ALEVOOR, UDYAVARA,
UDUPI TALUK AND DISTRICT - 574 118.

...APPELLANT

(BY SRI. PAVANA CHANDRA SHETTY H, ADVOCATE)

AND:

1. DEVENDRA NAIK
AGED ABOUT 61 YEARS,
S/O RAMAYYA NAIK,
R/O H.NO.2-63, NEAR PATEL HOUSE,
MOOD ALEVOOR,
UDUPI DISTRICT- 574 105.
2. THE DIVISIONAL MANAGER,
UNITED INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE, JEWEL PLAZA,

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1ST FLOOR, MARUTHI VEETHIKA,
UDUPI - 576 101.

...RESPONDENTS

(BY SRI. RAVISH BENNI, ADVOCATE FOR R2;
VIDE ORDER DATED 06.11.2025, NOTICE TO R1 IS
DISPENSED WITH)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DT. 26.10.2024 PASSED IN MVC
NO.88/2021 ON THE FILE OF THE II ADDITIONAL SENIOR
CIVIL JUDGE AND ADDITIONAL MACT, UDUPI, PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA NO. 796/2025

BETWEEN:

THE DIVISIONAL MANAGER
UNITED INDIA INSURANCE COMPANY LTD.,
DIVISIONAL OFFICE, JEWEL PLAZA
1ST FLOOR, MARUTI VEETHIKA
UDUPI - 576 101.

...APPELLANT

(BY SRI. BENNI RAVISH CHANDRASHEKAR, ADVOCATE)

AND:

1. SURESH NAIK
S/O APPU NAIK
AGED ABOUT 47 YEARS
R/O H NO.2-20, NEAR PATEL HOUSE
MOODU ALEVOOR, UDYAVARA
UDUPI TALUK AND DISTRICT.
2. DEVENDRA NAIK
S/O RAMAYYA NAIK

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AGED ABOUT 61 YEARS
R/O H NO.2-63, NEAR PATEL HOUSE
MOODU ALEVOOR, UDUPI TALUK AND DISTRICT.
...RESPONDENTS

(BY SRI. PAVAN CHANDRA SHETTY H, ADVOCATE FOR R1;
R2 SERVED AND UNREPRESENTED)

MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 26.10.2024 PASSED IN
MVC NO.88/2021 ON THE FILE OF THE II ADDITIONAL
SENIOR CIVIL JUDGE AND ACJM, ADDITIONAL MACT,
UDUPI, AWARDING COMPENSATION OF RS. 2,27,818/-
WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF
PETITION TILL REALIZATION.

THESE APPEALS, COMING ON FOR HEARING, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

MFA No.1335/2025 is filed by the claimant seeking
enhancement of compensation awarded in MVC.No.88/2021
and MFA No.796/2025 is filed by Insurer challenging the
judgment and award dated 26.10.2024 passed in MVC
No.88/2021 by II Additional Senior Civil Judge and Additional
M.A.C.T., Udupi.

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2. The appellant/claimant made a claim petition seeking for award of compensation for the injuries sustained by him in a road traffic accident occurred on 20.12.2019 contending that the accident occurred due to rash and negligent driving of the rider of the motorcycle KA-20-EA-3129 on which he was a pillion rider.

3. The Tribunal recorded the evidence adduced by the parties and upon appreciating the evidence on record, assessed the compensation and awarded the compensation under various heads as under:

Sl. No.	Heads of compensation	Rs.
I.	Pecuniary Damages	
1.	Medical expenses	1,07,001.00
	Conveyance charges	2,000.00
	Nourishing food	1,000.00
2.	Loss of earnings	
	Loss of earnings during the period of treatment	3,736.00
	Loss of future earnings	94,080.00
	Future medical expenses	-Nil-
II.	Non-pecuniary Damages	
1.	Pain and sufferings	10,000.00
2.	Loss of amenities	10,000.00
	Total	2,27,818.00

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4. The Tribunal has also awarded the interest at the rate of 6% per annum from the date of petition till realisation and directed respondent No.2/insurer to pay the compensation awarded with interest. The claimants have filed the present appeal seeking enhancement of compensation. The Insurer has filed appeal challenging liability fastened.

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

6. Learned counsel for the Insurer would contend that the claimant was suffering from fits and when the motorcycle on which he was a pillion rider stopped he could not get down and he fell down and sustained injuries. The said aspect is clear from the evidence of RW1 (the rider and the owner of the motor cycle). RW2 is a doctor, who has treated the claimant immediately after the accident, when he was brought to him, wherein he has stated that due to withdrawal of the alcohol habit, the person may get fits. He further submits that RW1 has stated in his evidence that as per request of the police, he affixed his signature on the papers, as police told him that he

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should not worry, as papers are required for insurance claim.
With this he prayed to allow the appeal.

7. Learned counsel for the claimant would contend that Ex-P6 is the charge sheet and it is filed against the rider and owner of the motorcycle. The rider and owner of the motorcycle, who has been examined as RW1 has admitted in his cross-examination that he has pleaded guilty. The said aspect clearly indicates the rash and negligent driving of the rider of the motorcycle insured with the appellant/Insurer. Considering the same, the Tribunal has rightly fastened the liability on the Insurer. He further submits that the claimant has sustained two injuries namely (i) fracture of D1 vertebra and (ii) Closed head injury. The said injuries are mentioned in Ex-P9/ disability certificate. Considering the said injuries, the compensation awarded towards pain and suffering, loss of amenities, attendant, conveyance charges and loss of income during the laid up period are on lower side. He further submits that the PW2/Doctor, who examined the claimant has assessed the disability and stated that the claimant has sustained 12% locomotor disability to the whole body and Tribunal has erred in

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taking the disability at 4%. With these he prayed to allow the appeal.

8. Having heard both the learned counsels, the Court has perused the Judgment and Award.

9. The following points arises for consideration:

- (i) Whether Tribunal is justified in fastening the liability on the insurer?
- (ii) Whether compensation awarded by the Tribunal requires enhancement.

REASONS

10. **POINT NO.(i):** Respondent No.1/Devendra Naik was rider and owner of the motorcycle bearing No.KA-20-EA-3129 upon which the claimant was a pillion rider. Ex-P6 is a charge sheet and it is filed against respondent No.1, rider of the motorcycle for offences punishable under Sections 279 and 337 of the Indian Penal Code, 1860. Respondent No.1, rider of the motorcycle (RW1) in his cross-examination has admitted that he has pleaded guilty. The said aspect itself clearly indicates that the accident occurred due to rash and negligent

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riding of the motorcycle by the rider *i.e.*, respondent No.1 (RW1). Considering the said aspect, the evidence of RW1 that the claimant/injured was suffering from fits and therefore he fell down and he has taken to the Doctor cannot be believed. RW2/Doctor has stated that claimant was brought to him with injuries and said injuries can be sustained in the road traffic accident. RW2 has not stated that earlier he has treated the appellant/claimant for fits. Considering all these aspects, the Tribunal has rightly fastened the liability on the Insurer. Accordingly, **point No.(i)** is answered.

11. **POINT NO.(ii)**: As per Ex-P9/disability certificate, the claimant has sustained two injuries namely (i) fracture of D1 vertebra and (ii) Closed head injury. Considering the said injuries, the compensation awarded by the Tribunal towards pain and suffering in a sum of Rs.10,000/- is enhanced to Rs.60,000/-. Loss of amenities awarded in a sum of Rs.10,000/- is enhanced to Rs.40,000/-. The claimant has been admitted in the hospital for 8 days and therefore, he is entitled to attendant and conveyance charges, food and nourishment etc., for a sum of Rs.8,000 (1,000/- x 8 days) as against

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Rs.2000 + Rs.1000/- awarded by the Tribunal towards conveyance and food and nourishment etc., Considering the injuries sustained by the claimant, has to take rest at least for 2 months and therefore, entitled to loss of income during the laid up period in a sum of Rs.28,000/- (Rs.14,000/- x 2) as against Rs.3,736/- as awarded by the Tribunal.

12. PW2 is a Doctor, who has examined the claimant, assessed his disability and stated that the claimant is having 12% locomotor disability of the body. PW2 has also stated that D1 vertebra fracture is malunited. The Tribunal has taken disability at 4%. The claimant's occupation is coolie and his age is 43 years. Considering the said aspect and also evidence of PW2, the functional disability of the claimant is to be taken at 8%. The Tribunal has rightly applied multiplier '14'. In view of the above, claimant is entitled to loss of future income due to disability as under:

$$\text{Rs.14,000} \times 12 \times 14 \times 8\% = \text{Rs.1,88,160/-}.$$

13. The Tribunal has rightly awarded medical expenses of Rs.1,07,001/-.

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14. Considering all the above aspects, the claimant is entitled to total compensation under various heads as under:

Sl. No.	PARTICULARS		AMOUNT
1.	Medical Expenses	Rs.	1,07,001/-
2.	Pain and Suffering	Rs.	60,000/-
3.	Loss of Amenities	Rs.	40,000/-
4.	Attendant, Conveyance, Food and Nourishment etc.,	Rs.	8,000/-
5.	Loss of income during laid up period	Rs.	28,000/-
6.	Loss of future income due to disability	Rs.	Rs.1,88,160/-
	Total	Rs.	4,31,161/-

15. The claimant is entitled to total compensation of Rs.4,31,161/- as against Rs.2,27,818/- as awarded by the Tribunal with interest.

16. Consequently, the claimant is entitled to enhanced compensation of Rs.2,03,343/- (Rs.4,31,161/- (-) Rs.2,27,818/-) with interest at the rate of 6% per annum from the date of petition till the realisation.

17. The Insurer/respondent No.2 before the Tribunal is liable to pay the said enhanced compensation with interest.

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18. In view of the above, the following:

ORDER

- (i) MFA No.796/2025 filed by the Insurer is ***dismissed.***
- (ii) MFA No.1335/2025 filed by the claimant is ***allowed-in-part.***
- (iii) The claimant is entitled to enhanced compensation of Rs.2,03,343/- with interest at the rate of 6% per annum from the date of realisation.
- (iv) The Insurer (respondent No.2 before the Tribunal) shall deposit the enhanced compensation with interest before the Tribunal within a period of 6 weeks from this day.
- (v) The appellant/claimant is entitled to release of entire enhanced compensation.
- (vi) Amount in deposit is ordered to be transmitted to the Tribunal.

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(SHIVASHANKAR AMARANNAVAR)
JUDGE