



NC: 2026:KHC:30950-DB
MFA No. 6211 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JUNE, 2026

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO.6211 OF 2018(MV-I)

BETWEEN:

VEERESHA
S/O KATALINGAPPA,
AGED ABOUT 19 YEARS,
STUDENT AND AGRICULTURIST,
R/O GUNDIMADU GOLLARAHATTY,
VILLAGE,HOLALKERE TALUK-577 526.

...APPELLANT

(BY SRI.SHASHIDHARA., ADVOCATE)

AND:

1. MAHABHADRAPPA
S/O VEERABHADRAPPA,
AGED ABOUT 66 YEARS,
OWNER OF VEHICLE BEARING
NO.KA-16/B-3367,
R/O MALLIKARJUNA MOTOR SERVICE,
GANDHI NAGARA,
CHALLAKERE TOWN-577 522.

2. THE DIVISIONAL MANAGER,
THE ORIENTAL INSURANCE CO.LTD.,
1STFLOOR,A.M.ARCADÉ,
NEAR VIDHYARTHI BHAVAN,
C.G.HOSPITAL ROAD,
DAVANAGERE-577 001.

...RESPONDENTS

(BY SRI. ASHOK.N.NAYAK., ADVOCATE;
V/O/DTD:28.10.2022, NOTICE TO R1 IS DISPENSED WITH)

Digitally signed by
SUMATHY KANNAN
Location: High
Court of
Karnataka



THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED: 31.01.2018 PASSED IN MVC NO.836/2016 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC & MACT, HOLALKERE, 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
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present appeal seeks to challenge the judgment and award dated 31.01.2018, in MVC No.836/2016, passed by the learned Senior Civil Judge and MACT at Holalkere (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded compensation to the appellant/claimant in a sum of Rs.4,07,390/-, along with interest at 6% per annum from the date of the petition till its realisation.



2. The brief facts of the case are that on 24.03.2016, at about 7.40 p.m., the appellant/claimant Veeresha, was riding as a pillion on his friend's motor cycle bearing Registration No.KA-16/U-6072, on the National Highway near Kudineerakatte Gate Bridge at Holalkere Taluk, when a bus bearing registration No.KA-16/B-3367, stated to be driven by the driver in a rash and negligent manner, hit the appellant/claimant. As a result of the accident, the appellant/claimant sustained both simple and grievous injuries all over his body. A complaint was registered against the driver of the offending bus. After the accident, the appellant/claimant was shifted to the Government Hospital at Holalkere and he took treatment as an inpatient. In view of the accident, a claim petition was filed by the appellant/claimant under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'MV Act').

3. Notices were served on both the respondents, i.e., respondent No.1/owner/driver and the respondent



No.2/insurer of the offending bus. Both parties contested the matter before the learned Tribunal.

4. Based on the pleadings by the parties, the following issues were framed by the learned Tribunal:

"1. Whether the petitioner proves that alleged accident occurred due to rash and negligence driving of Mallikarjuna Bus bearing Reg. No.KA-16/B-3367 by its driver on 24.03.2016 at about 7.40 p.m., near Kudineerakatte gate bridge, NH-13, Holalkere Taluk, while he was traveling on the motor cycle bearing Reg. No.KA-16/U-6072 along with his friend?

2. Whether the petitioner proves that he sustained injuries on the account of alleged accident?

3. Whether the respondent No.2 proves that alleged accident was occurred due to rash and negligence driving riding of the motor cycle bearing Reg.No.KA-16/U-6072 by its rider and he must have also contributed to the alleged accident?

4. Whether the respondent No.2 proves that there is violation of terms and conditions of the insurance policy?

5. Whether the petitioner is entitled for the compensation? If so, what amount and from whom?

6. What order or award?"

5. The guardian of the appellant/claimant examined himself as PW-1, since the appellant/claimant was a minor. The Doctor, Dr.Monappa Naik.A, who treated the appellant/claimant was examined as PW-4. Since the award was in respect of two other claim petitions, MVC



No.827/2016 and MVC No.829/2016, these claimants there were examined as PW-2 and PW-3. The appellant/claimant also produced documents, which were marked as Exhibit P1 to Exhibit P18 including FIR (Exhibit-P1), Complaint (Exhibit-P2), Spot Mazhar (Exhibit-P3), Seizure Mazhar (Exhibit-P4), Motor Vehicle Accident report (Exhibit-P5), Wound Certificate (Exhibit-P6) and Charge-sheet (Exhibit-P7). The respondents only produced a copy of the Insurance Policy as Exhibit R1.

6. Based on the evidence produced and on examining the documents, especially the charge-sheet (Exhibit-P7), which was filed against the driver of the offending bus, the learned Tribunal found that the accident occurred due to the rash and negligent driving of the offending vehicle. In addition, found that based on the records produced including the medical bills (Exhibit-P13), prescriptions (Exhibit-P14) and the Disability Certificate (Exhibit-P10) issued by the Doctor (PW-4), that the appellant/claimant suffered right knee amputation stump at the level of lower



thigh and assessed 80% disability to the whole-body. However, the learned Tribunal deducted 1/3rd of the injuries sustained and assessed the disability to the whole-body at 26%.

7. In addition, relying on the judgment of the Supreme Court in the ***Master Mallikarjun vs. Divisional Manager, The National Insurance Company Limited and Another***¹ case, the learned Tribunal awarded the compensation at Rs.30,000/- per annum. The learned Tribunal also applying the multiplier of '18' and disability at 26%, calculated the 'loss of income due to disability' in the following manner:

$$\text{Rs.30,000} \times 26\% \times 18 = \text{Rs.1,40,400/-}$$

8. The learned Tribunal awarded compensation as is set out below:

Sl.No.	Particulars	Amount (Rs.)
1	Pain and sufferings	25,000/-

¹(2014) 14 SCC 396



2	Medical Expenses	2,16,990/-
3	Loss of earnings during laid up period	10,000/-
4	Loss of future earnings due to disability	1,40,400/-
5	Attendant, Nourishment and Diet	10,000/-
6	Conveyance Charges	5,000/-
	TOTAL	4,07,390/-

8.1 Thus, an amount of Rs.4,07,390/-, along with interest at 6% per annum was awarded.

9. The challenge in the present appeal is by the appellant/claimant. The learned counsel for the appellant submits that the compensation has not been calculated correctly by the learned Tribunal. Relying on the judgment of the Supreme Court, in the case of **Hitesh Nagjibhai Patel vs. Bababhai Nagjibhai Rabari And Another**², he submits that the notional income should have been awarded to the minor appellant/claimant. In addition, he

² 2025 INSC 1070



contends that since the accident took place in the year 2016, Rs.9,500/- per month should have been awarded.

9.1. Secondly, the learned counsel for the appellant/claimant contends that the injuries sustained and the disability certificate produced showed a disability of 80%. He submits that this is also a Scheduled Injury as is set out in the Employers' Compensation Act, 1923 (hereinafter referred to as 'the EC Act') and thus disability should have been awarded at 80%. In addition, the learned counsel for the appellant/claimant submits that the amounts awarded towards 'loss of amenities' and under 'pain and suffering' are limited.

10. The learned counsel for the appellant submits that the appellant/claimant was a boy of 17 years, when the accident happened and his entire future has been changed because of the accident. It is also contented that no amounts have been awarded for a prosthetic and also towards 'future medical expenses'. Given the fact that the appellant/claimant has lost a limb, the learned Tribunal



should have awarded amounts for 'future medical expenses' as well.

11. The learned counsel for the respondents, on the other hand, fairly submits that the law is settled by the Supreme Court that a minor shall be awarded compensation in terms of the minimum wages of a skilled worker. He further avers that the award on disability and on pecuniary and non-pecuniary heads is in accordance with the settled legal principles and does not call for interference.

12. Based on the contentions of the parties, the question that arises for consideration are:

- (i) Whether the compensation awarded by the learned Tribunal requires to be enhanced?
- (ii) Whether the disability assessed by the learned Tribunal requires interference?

13. The Supreme Court in ***Master Ayush v. Branch Manager, Reliance General Insurance Company Ltd.***



& Anr.³ while discussing entitlement of the compensation in the case of a minor child held that minimum wages in the State where the accident occurred of a skilled worker as of the date of the accident and that compensation would be assessed thereon on the assumption that the appellant would have been able to earn after attaining maturity. The relevant extract is set out below:

"9. In the present appeal, the minimum wages for 2010-11 in the State of Karnataka for employments not covered under any of the scheduled employments can be ascertained from the following extract of notification for minimum wages published in the Gazette on 19-2-2007:

"24. Employment not covered in any of the Scheduled Employments Notification No.KAE 79 LMW 2005 dated 17-3-2006 Published in Gazette dated 19-2-2007 Cost of Living Allowance to be paid over and above 2703 points Cost of Living Index: 3944-2703 = 1241 points Minimum wages and VDA from 1-4-2010 to 31-3-2011

SCHEDULE

S. No.	Class of Employment	Minimum rates of wages payable for different zones		
		<i>Basic</i>	<i>VDA</i>	<i>Total</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
1.	Highly skilled	2691.80	1116.90	3808.70
2.	Skilled	2591.80	1116.90	3708.70
3.	Semi-skilled	2041.80	1116.90	3158.70
4.	Unskilled	1890.80	1116.90	3008.70

VDA: All categories of employees: 3 paise per point per day over and above 2703 points.

³ (2022) 7 SCC 738



10. Hence, as per the above extract, **the minimum wages payable to a skilled workman in 2010-11 is to the tune of Rs.3708.70. In this view, the minimum wages as on the date of accident is rounded off to Rs.3700. The compensation, therefore, is to be assessed on the basis of the said minimum wages on the assumption that the appellant would have been able to earn after attaining majority.**

[Emphasis Supplied]

14. A similar view was taken by the Supreme Court in ***Minor Roopa D/o Basappa v. Divisional Manager, New India Assurance Co. Ltd.***⁴ where the injured was a minor girl who suffered permanent physical impairment. The Court while relying on the ***Master Ayush*** case determined compensation on the basis of minimum wages of a skilled worker in the following terms:

"4. The learned counsel for the appellant has produced the photographs of the appellant which shows the extent of loss of limb and the consequent psychological, emotional and physical pain which the appellant would suffer for rest of her life. In fact, the other leg may not be able to support the appellant, when she grows. This Court in *Ayush* [*Ayush v. Reliance General Insurance Co. Ltd.*, (2022) 7 SCC 738 : (2022) 4 SCC (Civ) 175 : (2022) 3 SCC (Cri) 269] was considering a case of an accident of 5-year-old child wherein this Court determined compensation on account of loss of future earnings on the basis of minimum wages due to permanent disability for life, loss of future prospects, medical expenses and pain and suffering.

⁴ (2024) 12 SCC 490



5. The minimum wages in the State of Karnataka on the date of accident were Rs.4320 per month as per Notification No.KAE 79 LMW 2005 dated 17-3-2006, published in the Gazette dated 19-2-2007. The wages as per the notification are as under:

"Minimum Wages and VDA from 1-4-2012 to 31-3-2013

SCHEDULE

S. No.	Class of Employment	Minimum rates of wages payable for different zones		
		<i>Basic</i>	<i>VDA</i>	<i>Total</i>
1	2	3	4	5
1.	Highly skilled	2691.80	1728.90	4420.70
2.	Skilled	2591.80	1728.90	4320.70
3.	Semi-skilled	2041.80	1728.90	3770.70
4.	Unskilled	1891.80	1728.90	3620.70

6. The future prospectus **would be 40% in view of National Insurance Co. Ltd. v. Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205]** . Thus, the compensation works out to be Rs.4320 plus 40%, amounting to Rs.6048 per month. The appellant will not be able to use any artificial limb and would always have to depend for her daily chores and as she grows, she would suffer more physical and emotional distress. She would always require assistance of another person and frequent use of hired means of transport. In view of the said fact, we award compensation as follows:

	Head	Amount
A	Loss of future earning due to the permanent disability for life $(4320 + 1728 = 6048) \times 12 \times 18$	Rs.13,06,368
B	Medical expenses including future expenses	Rs. 5,00,000
C	Pain, suffering and loss of amenities	Rs. 5,00,000
D	Loss of marriage prospects	Rs.10,00,000
E	One attendant charges $(4624 \times 12 \times 18) = 9,98,784$	Rs.10,00,000
F	Conveyance charges (as she has to move in a hired conveyance)	Rs.10,00,000



	Total	Rs.53,06,368
	Rounded off	Rs.53,07,000

15. In **Hitesh Nagji Bhai Patel** case, the Supreme Court held in cases involving a minor child who suffers death or permanent disability in a motor vehicle accident, the child cannot be treated as a non-earning individual merely because he or she was not engaged in gainful employment. The computation of compensation under the head of loss of income must be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the concerned State. The relevant extract of the **Hitesh** case is set below:-

"9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. **It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income**



ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in *Kajal v. Jagdish Chand and Ors.*, and *Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr.*

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XXX

XXX

15. For the purpose of emphasis, it is again clarified here that when a Tribunal or the High Court in appeal, is concerned with the case involving a child having suffered injury or having passed away, the calculation of loss of income necessarily has to be made on the matric of minimum wages payable to a skilled worker in the respective State at the relevant point of time. It is our hope that this restatement helps avoiding such errors and thereby obviates the necessity of this Court's interference, applying well-established principles of law."

[Emphasis supplied]

16. The settled law in this behalf is thus that in case of a death or an injury of a minor child, the minimum wages of a skilled worker are to be awarded.

17. It is undisputed that the appellant/claimant was a minor aged about 17 years as on the date of the accident, which occurred on 24.03.2016. The notional income for the year 2016 as per the chart of the Karnataka State Legal Services Authority, is Rs.9,500/- per month. The disability was assessed at 80% to the whole-body by the



doctor PW4, however, for the purpose of loss of income due to disability, the learned Tribunal calculated at 27% to the whole-body.

18. On an examination of the disability certificate, it shows that the appellant has suffered 80% disability of the right lower limb. The Disability Certificate is extracted below:

"11.1.2017

DISABILITY CERTIFICATE

This is to certify that Mr.Veeresh K., (Hospital No.2861643) is examined today.

He has right above knee amputation stump at the level of lower 1/3rd thigh.

Because of the above, he has 80% (Eighty percent) disability in his right lower limb locomotor function permanently (based on the Formula as per Central Govt. Gazette notification Regd. No.DL 33004/99 (EO) Part II Sec1, June 13, 2001, Ministry of Social Justice and Empowerment.

Sd/-

DR MONAPPA NAIK A.
Assoc. Prof. Orthopedics

Sd/-

DR.SHARATH K.RAO
Prof. & Head, Ortho Unit V"

[Emphasis Supplied]

19. As pointed out by the learned counsel for the appellant/claimant, this injury forms part of the list of



injuries deemed to result in 'Permanent Partial Disablement' at Schedule I, Part II of the Sl.No. 17 of the EC Act in the following manner:

Serial No	Description of injury	Percentage of loss of earning capacity
<i>Amputation cases—lower limbs</i>		
11	<i>Amputation of both feet resulting in end-bearing tumps</i>	90
12	<i>Amputation through both feet proximal to the metatarso-phalangeal joint</i>	80
13	<i>Loss of all toes of both feet through the metatarso-phalangeal joint</i>	40
14	<i>Loss of all toes of both feet proximal to the proximal interphalangeal joint</i>	30
15	<i>Loss of all toes of both feet distal to the proximal interphalangeal joint</i>	20
16	<i>Amputation at hip</i>	90
17	<u>Amputation below hip with stump not exceeding[12.70 cms.] in length measured from tip of great trenchanter</u>	80

[Emphasis Supplied]

20. PW4, who is the treated Doctor, Dr. Monappa Nair in his evidence, has also set out the injuries sustained by the appellant/claimant, which is as follows:

"2. On examination he had the following injuries:

- a. *Right femur shaft fracture*
- b. *Right tibia shaft fracture with vascular injury*



The injuries sustained by the patient was grievous.

3. He received the following treatment:

- a. Admission on 25.3.2016
- b. CTVS consultation
- c. Right femur intramedullary and external fixator for right tibia and vascular repair done on 25.3.2016.
- d. Right knee disarticulation done on 31.3.2016.
- e. Revision amputation- right above knee done on 4.4.2016.
- f. Discharged on 8.4.2016.
- g. Reviewed on 25.4.2016.
4. M.Veeresh K., (Hospital No.2861643) is examined 11.1.2017

He has right above knee amputation stump at the level of lower 1/3rd of thigh

5. **Because of the above, he has 80% (Eighty percent) of disability in his right lower limb locomotor function permanently** (based on the Formula as per Central Government Gazette Notification Regd. No.DL 33004/99(EO) Part II, Sec1, June 13, 2001, Ministry of social Justice and empowerment.”

[Emphasis Supplied]

21. The Supreme Court in **Pappu Deo Yadav v. Naresh Kumar⁵**, held that while assessment of injury to a particular limb may not necessarily amount to permanent

⁵ (2022) 13 SCC 790



disability of the whole body, the relevant consideration for determining compensation is the resultant loss caused to the earning or income-generating capacity of the claimant. The Court deprecated a mechanical reduction of disability and observed that the individual circumstances and functional impact of the injury are of crucial importance while determining the extent of permanent disablement for the purpose of assessing loss of earning capacity. The relevant extract is set out below:

*"13. The factual narrative discloses that the appellant, a 20-year-old data entry operator (who had studied up to 12th standard) incurred permanent disability i.e. loss of his right hand (which was amputated). The disability was assessed to be 89%. However, the Tribunal and the High Court reassessed the disability to be only 45%, on the assumption that the assessment for compensation was to be on a different basis, as the injury entailed loss of only one arm. This approach, in the opinion of this Court, is completely mechanical and entirely ignores realities. Whilst it is true that assessment of injury of one limb or to one part may not entail permanent injury to the whole body, the inquiry which the court has to conduct is the resultant loss which the injury entails to the earning or income generating capacity of the claimant. **Thus, loss of one leg to someone carrying on a vocation such as driving or something that entails walking or constant mobility, results in severe income generating impairment or its extinguishment altogether. Likewise, for one involved in a job like a carpenter or hairdresser, or machinist, and an experienced one at that, loss of an arm, (more so a functional arm) leads to near extinction of income generation. If the age of the***



victim is beyond 40, the scope of rehabilitation too diminishes. These individual factors are of crucial importance which are to be borne in mind while determining the extent of permanent disablement, for the purpose of assessment of loss of earning capacity."

[Emphasis Supplied]

21.1 Accordingly, since it is permanent physical disability of his right lower limb, the loss of income due to disability is calculated in the following manner:

$$\mathbf{Rs.9,500 \times 12 \times 18 \times 80\% = Rs.16,41,600/-}$$

22. The appellant/claimant was hospitalised for a period of 15 days and thus the loss of income during the treatment period would also be required to be calculated for 3 months, which is as follows:

$$\mathbf{Rs.9,500 \times 3 = Rs.28,500/-}$$

23. The Supreme Court in the ***Hitesh Nagjibhai Patel*** case in addition to the compensation amount, has also awarded amounts towards 'pain and sufferings', 'future medical expenses' and 'loss of marriage prospects'. In addition, an examination of the amounts which have been awarded by the learned Tribunal towards loss of amenities,



nourishment, etc., are not in accordance with the settled legal principles. Thus, this Court accordingly deems it apposite to enhance these amounts as well. Accordingly, the amounts awarded by the learned Tribunal are recalculated as follows:

Sl.No.	Particulars	Amount (Rs.)
1	Loss of future earnings due to disability (Rs.9500 x 12 x 80% x 18)	16,41,600/-
2	Pain and suffering	45,000/-
3	Medical Expenses	2,16,990/-
4	Loss of earnings during laid up period (Rs.9,500 x 3)	28,500/-
5	Loss of Marriage Prospects	1,00,000/-
6	Loss of Amenities	50,000/-
7	Future Medical Expenses	50,000/-
8	Attendant, Nourishment, Diet and Conveyance Charges	15,000/-
	TOTAL	21,47,090/-
	Less: Awarded by the Tribunal	4,07,390/-
	Enhanced compensation	17,39,700/-

24. Hence, the appellant/claimant is entitled to an enhancement in the sum of Rs.17,39,700/- along with



interest at 6% per annum as awarded by the learned Tribunal, from the date of petition till its realization.

25. Accordingly, this Court proceeds to pass the following:

ORDER

(i) The appeal is ***partly allowed;***

(ii) The Judgment and Award dated 31.01.2018, in MVC No.836/2016, passed by the learned Senior Civil Judge and MACT at Holalkere enhancing the compensation by **Rs.17,39,700/-** along with interest at the rate of 6% per annum as awarded by the learned Tribunal from the date of petition till realization;

(iii) The remaining portion of the Impugned Award of the Tribunal remains undisturbed;

(iv) The respondent No.2/Insurance company is directed to pay the enhanced compensation with interest as awarded by the Tribunal within eight weeks from today;



- (v) On such deposit of compensation, the same shall be released in favour of the appellant/claimant, on filing of an appropriate application for withdrawal of the enhanced amount;
- (vi) The Registry is directed to draw the modified Award accordingly;
- (vii) The Registry is directed transmit a copy of this judgment to the concerned Tribunal, along with its records;
- (viii) Pending applications, if any, stand closed.
- (ix) No order as to costs.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

JJ
List No.: 1 Sl No.: 28