



CNR: KAHC010119202024

NC: 2026:KHC:39766-DB
MFA No. 1369 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO. 1369 OF 2024 (MV-I)

BETWEEN:

SRI. HARSHAVARDHAN M
S/O MUNIRATHNUM G,
NOW AGED ABOUT 28 YEARS,
RESIDING AT
T.B.P. 11, C.N. ROAD,
KAGE HALLA, ARALIHALLI,
BHADRAVATHI - 577 233.
SHIMOGA DISTRICT.

...APPELLANT

(BY SRI. GOPAL KRISHNA N.,ADVOCATE)

AND:

1. SRI. ANAND G.C.
NO.25, H BOMBAY,
MUNIYAPPA COLONY,
HEBBAGODI, HOSUR MAIN ROAD,
OPP. TO BICON,
BENGALURU-560 100.
2. SMT. LAKSHMAMMA
W/O NARAYANAPPA,
NO.38, DR.AMBEDKAR NAGAR,
A SECTOR, SATELLITE TOWN,
YELAHANKA,
BENGALURU - 560 064.

Digitally signed
by G
SHREERAKSHA
Location: HIGH
COURT OF
KARNATAKA



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3. THE BRANCH MANAGER
THE NEW INDIA
ASSURANCE CO.LTD,
2-B, UNITY BUILDING ANNEXE,
P. KALINGA RAO ROAD,
BENGALURU - 560 027.
4. SRI. RAFEEQ
PROP. M/S. UNITY COMMUNICATIONS,
NO.32/1175F, 2ND FLOOR,
UNITY ENCLAVE, CIVIL LANE ROAD,
PALARVIATION KOCHI,
COCHIN- 683 549.
KERALA.
5. THE REGIONAL MANAGER,
ORIENTAL INSURANCE CO.LTD.,
LEO SHOPPING COMPLEX,
NO.44/45
RESIDENCY CROSS ROAD,
BENGALURU- 560 025.

...RESPONDENTS

(BY SRI. C. SHANKAR REDDY, ADVOCATE FOR R3,
SRI.S.V.HEGDE MULKHAND, ADVOCATE FOR R5,
VIDE ORDER DATED 06/11/2024,
NOTICE TO R1,R2 & R4 ARE D/W)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DT.24.06.2023 PASSED IN MVC
NO.1278/2019 ON THE FILE OF THE VIII ADDITIONAL SMALL
CAUSE JUDGE AND ACMM, C/c. X ADDITIONAL SMALL CAUSE
JUDGE AND ACMM, MEMBER, MACT, BENGALURU, (SCCH-16),
PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION
AND SEEKING ENHANCEMENT OF COMPENSATION

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

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE DR. JUSTICE K.MANMADHA RAO



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ORAL JUDGMENT

(PER: HON'BLE DR. JUSTICE K.MANMADHA RAO)

The present appeal is filed by the appellant/claimant challenging the judgment and award dated 24.06.2023 in MVC.No.1278/2019 passed by the X Addl. Small Causes Judge and the MACT (SCCH-16) at Bengaluru, seeking enhancement of compensation.

2. Parties will be referred as per their ranking before the Tribunal.

3. Brief facts of the case are as under:

On 19.01.2019 at about 4.00 a.m., while the petitioner was traveling as a passenger in LMV Cab Car bearing Reg. No.KA-51-B-9203 near Devarabisanahalli, Country Club Bus Stop, Outer Ring Road, Bengaluru, the driver drove the cab at high speed in a rash and negligent manner, endangering human life, neglecting traffic rules and regulations and lost control of his vehicle and hit back portion of parked lorry bearing Reg.No.KL-07-CA-854. Due



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to the impact, petitioner has sustained multiple severe injuries on his head, hands, legs, face, chest region and other parts of the body.

4. Petitioner was taken to Sakra World Hospital Bengaluru, after the accident, wherein he took treatment as indoor patient since 19.01.2019 to 19.02.2019, for which the had spent an amount of Rs.10,00,000/- towards treatment, medicine, nourishment and conveyance.

5. At the time of the accident he was aged about 24 years, hale and healthy, working as Engineer at EIT Services India Private Limited, earning Rs.27,050/- p.m. Due to the accident, he was unable to do job and lost his source of income. A case in Crime No.3/2019 was registered before the Airport Traffic Police for the offences punishable under Sections 279, 337, 338 of IPC. Respondent No.1 is the insurer, Respondent No.2 is insured and Respondent No.3 is owner of the car bearing Reg.No.KA-51-B-9203, Respondent No.4 is insurer



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and Respondent No.5 is insured of Lorry bearing Reg.No.KL-07-CA-854.

6. The claimant filed a claim petition under Section 166 of M.V.Act., claiming compensation before the Tribunal.

7. On service of notice, Respondent No.1/insurer of the car bearing Reg.No.KA-51-B-9203 has appeared and filed written statement denying entire case of the petitioner and admitted the issuance of insurance policy to said vehicle, valid from 17.10.2018 to 16.10.2019. It is contended that the said car is not having valid and effective FC and permit as on the date of accident and the driver of the car is not having valid driving licence. Accordingly prays to dismiss the petition.

8. Respondent No.2/insured of the car and Respondent No.5/insured of the lorry remained absent and placed exparte. Further, it is deposed by Respondent No.1 that the driver of the car was not having valid and



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effective driving licence as on the date of the accident and the car had no valid FC and permit. Respondent No.3/owner of the car bearing Reg.No.KA-51-B-9203 appeared and filed written statement denying entire case, but admitted that car had been duly insured with Respondent No.1/Insurance Company. Respondent No.4/Insurer of the lorry bearing Registration No.KL-07-CA-854 appeared and filed written statement denying the case of the petitioner as there was no compliance of Section 134(c) of the M.V.Act. It is further deposed that the driver of the Cab was driving without valid driving licence and he is entitled to take shelter under Section 170 of the M.V.Act. Further, it is deposed that petitioner had to prove his age, income, injury and medical expenses incurred by him.

9. The Tribunal framed issues. The petitioner examined himself as P.W.1 and other three witnesses as P.W.2 to P.W.4 and got marked Ex.P1 to Ex.P32 in support



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of his case. RW.1 and RW.2 were examined on behalf of respondents and got marked Ex.R1 to Ex.R4.

10. The petitioner sustained traumatic brain injury, acute left fronto-temporal extra dural hemorrhage and other grievous injuries as per the evidence of the doctor. Further, CT scan of brain revealed acute epidural hemorrhage, acute subdural hemorrhage, acute subarectiroid hemorrhage, hemorrhage contusion and soft tissue hematoma. Further, petitioner underwent temporal parietal Craniotomy and Evacuation of Extra Dural Hematoma under G.A and Tracheotomy. The petitioner was inpatient for 121 days in Sakra Hospital and underwent multiple brain surgeries.

11. As per Ex.P6/wound certificate, the appellant/petitioner sustained the following injuries:

The injured person was first seen by the undersigned at 4.10 AM/PM on the 19.01.19 And the examination was commenced at 4.10 AM/PM on the 19.01.19 The following injuries were found:



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1. *Laceration over left frontal area of Scalp, forehead extend upto eyebrow, 15cm x 8 cm x bone deep.*
2. *Depressed fracture of left frontal bone.*
3. *Fracture of left squamous temporal bone.*
4. *Fracture of right frontal and parietal bone of scalp.*
5. *CT Scan brain revealed acute epidural hemorrhage along left fronto-parietal temporal area with middle Shift towards right.*
6. *acute subdural hemorrhage along cerebral convexity of parietal lobe and falx.*
7. *acute subarachnoid hemorrhage along the left cerebral sulci, right Sylvian fissure.*
8. *Hemorrhage contiguous in the right temporal and occipital lobe.*
9. *Soft tissue hematoma in the peri-orbital region, left fronto-parietal area of scalp*
10. *Abrasion over the outer aspect of left forearm 7cm x 3cm. Red colour.*
11. *Abrasion over the outer aspect of right elbow 5cm x 3cm. Red colour.*

12. As per Ex.P10/Neuropsychological Assessment Report issued by NIMHANS doctor, the petitioner had difficulty of hand tremors, residual weakness in right side, speech production is effortful with pauses and difficulty in making complex phrases, cognitive disturbances, forgetfulness, feeling tired after reading for short period,



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emotional/behavioral disturbances and increased irritability. Further, the cognitive disability is assessed at 32.78%. As per Ex.P22/disability certificate issued resident doctor at Sakra World Hospital, the petitioner is not able to perform his daily activities with cognitive disability of around 35-40%. The Tribunal has taken 30% physical disability. As per Ex.P30 pay slip for the month of June 2021, he was drawing gross salary of Rs.26,500/-.

13. The Tribunal has considered the monthly salary of appellant/claimant as Rs.26,500/-, applying multiplier 18 as he was aged 24 years, and considering physical disability at 30%, awarded compensation of Rs.17,17,200/- towards loss of future income. Further, compensation of Rs.50,000/- towards pain and suffering, Rs.50,000/- towards conveyance, attendant charges and Rs.50,000/- towards loss of amenities in life and Rs.50,000/- towards future medical expenses has been awarded. A sum of Rs.14,96,786/- has been awarded towards medical expenses considering the fact there is an



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admission regarding reimbursement of around Rs.11,00,000/-. A sum of Rs.1,06,000/- has been awarded towards loss of income during laid up period of 120 days, considering the monthly salary at Rs.26,500/-. Thus, the Tribunal has assessed total compensation of Rs.35,19,986/- along with interest at the rate of 6% p.a (excluding future medical expenses of Rs.50,000/-) as under:

Sl.No.	Head of Compensation	Amount in Rs.
1.	Loss of future income	17,17,200-00
2.	Pain and sufferings	50,000-00
3.	Conveyance, nourishment and attendant charges	50,000-00
4.	Medical Expenses	14,96,786-00
5.	Loss of amenities in life	50,000-00
6.	Loss of income during laid up period	1,06,000-00
7.	Future medical expenses	50,000-00
	Total	35,19,986-00

14. As regards negligence, it has been observed by the Tribunal that even though the accident occurred during early morning 4.00 a.m., the road lights were on. But the driver drove the car in a negligent manner. The driver of the lorry had parked the lorry in the middle of the road



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without giving indication. Therefore, the Tribunal saddled 50:50 negligence on the driver of both the vehicles.

15. The Tribunal awarded total compensation of Rs.35,19,986/- and directed Respondent No.1/insurer of the car to pay 50% of compensation and another 50% to be paid by Respondent No.4/insurer of the lorry, to be deposited within 60 days from the date of the order passed by the Tribunal.

16. Being aggrieved by the same, the present appeal is filed before this Court seeking enhancement of compensation.

17. Learned counsel for the appellant/claimant has contended that due to the accident, the appellant suffered a severe traumatic brain injury, acute left fronto-temporal extra-dural hemorrhage and left frontal bone depressed fracture. That the appellant was hale and healthy prior to the accident and working as Software Engineer at DXE Technology and due to severe cognitive deficits, he had to



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quit his job. Therefore, it is contended that as the appellant had sustained multiple fractures and underwent procedures and was an inpatient for 121 days, the functional disability should have been considered at 100% and adding 40% towards future prospects, the Tribunal should have awarded adequate compensation. Further, it is contended that the Tribunal wrongly deducted medical expenses covered by a personal health insurance policy and gave inadequate amount of compensation towards pain and suffering and loss of amenities. Further no compensation has been awarded towards loss of marriage prospects. Therefore, he contended that the compensation awarded by the Tribunal is inadequate and the Tribunal erred in deducting 50% of compensation assessed fixing 50:50 liability on the drivers of both the vehicles even though driver of the lorry had parked the lorry in the middle of the road.

18. Learned counsel for Respondent No.3/insurer of the car submitted that the driver of the lorry had parked



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the lorry in the middle of the road. Further, the driver of the car had insurance policy to the said car bearing Reg No.KA-51-B-9203. Therefore, it is contended that the Tribunal ought to have saddled 100% contributory negligence on the driver of the lorry who had negligently parked the lorry in the middle of the road. Therefore, he prays that the appeal filed by the appellant for enhancement deserves to be dismissed.

19. Learned counsel for Respondent No.5/Insurer of the lorry submitted that the driver of the car had no valid and effective driving licence as per Police Report. Further the said car bearing No.KA-51-B-9203 had no valid and effective FC and permit as on the date of the accident. It is contended that as per Ex.P4, there were road lights and the accident occurred due to negligence on the part of the driver of the car. Therefore, it is submitted that the Tribunal erred in saddling 50% liability on the driver of the lorry and the appeal filed by the appellant has to be dismissed, saddling 100% liability on the driver of the car.



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20. As observed by this Court, the appellant/claimant has sustained multiple fractures and underwent surgeries and sustained neuro psychological disability to the extent of around 33% and sustained cognitive disability due to which, he is unable to carry out day to day activities properly and it has affected his job prospects also. The Tribunal has considered 30% permanent physical disability to the whole body of the appellant. The appellant has sustained cognitive disturbances, forgetfulness, feeling tired after reading for short period and emotional/behavioral disturbances. Therefore, considering the disability certificate issued by doctors at Sakra Hospital and NIMHANS and also the fact that appellant has undergone multiple surgeries and procedures and has taken treatment as inpatient for 121 days and he has sustained cognitive disability as well, making it difficult to carry out day to day activities and has lost his job due to the accident, 50% permanent physical disability has to be taken into consideration. Taking the gross monthly salary



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of appellant/claimant as Rs.26,500/- as per pay slip produced, applying multiplier 18 as he was aged 24 years, and considering physical disability at 50%, the appellant is entitled to compensation of Rs.28,62,000/- towards loss of future income. Further, compensation of Rs.50,000/- towards pain and suffering, Rs.50,000/- towards conveyance, attendant charges and Rs.50,000/- towards loss of amenities in life and Rs.50,000/- towards future medical expenses awarded by the Tribunal are just and reasonable and kept in tact. A sum of Rs.14,96,786/- has been awarded towards medical expenses considering the fact there is an admission regarding reimbursement of around Rs.11,00,000/-, which is also reasonable. A sum of Rs.1,06,000/- has been awarded towards loss of income during laid up period of 120 days, considering the monthly salary at Rs.26,500/-. As the appellant was inpatient for a period of 121 days, the monthly salary being Rs.26,500/-, one day's salary approximately would work out to Rs.833/-, which is rounded off to Rs.1,000/-. Thus a sum



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of Rs.1,07,000/- (Rs.1,06,000/- + Rs.1,000/-) is awarded towards loss of earning during laid up period. Thus, the total compensation is assessed as under:

Sl.No.	Head of Compensation	Amount in Rs.
1.	Loss of future income	28,62,000/-
2.	Pain and sufferings	50,000/-
3.	Conveyance, nourishment and attendant charges	50,000/-
4.	Medical Expenses	14,96,786/-
5.	Loss of amenities in life	50,000/-
6.	Loss of income during laid up period	1,07,000/-
7.	Future medical expenses	50,000/-
	Total	46,65,786/-

21. Therefore, the appellant/claimant is entitled for total compensation of **Rs.46,65,786/-** along with interest at the rate of 6% p.a. (excluding future medical expenses of Rs.50,000/-) from the date of filing of the petition till realization, as against Rs.35,19,986/- awarded by the Tribunal. The total compensation of Rs.46,65,786/- shall be jointly and severally deposited in the ratio of 50:50 by Respondent No.3/New India Assurance Co.Ltd., and Respondent No.5/Oriental Insurance Co.Ltd.



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22. In the result, the following order is passed:

ORDER

- i) The appeal is ***allowed in part.***
- ii) The judgment and award dated 24.06.2023 in MVC.No.1278/2019 passed by the X Addl. Small Causes Judge and the MACT (SCCH-16) at Bengaluru, stands modified.
- iii) The appellant/claimant is entitled for total compensation of **Rs.46,65,786/-** along with interest at the rate of 6% p.a., (excluding future medical expenses of Rs.50,000/-) from the date of petition till its realization to be deposited by Respondent No.3 and Respondent No.5/Insurance Companies.
- v) The compensation shall be jointly and severally deposited in the ratio of 50:50 by Respondent No.3/New India Assurance Co.Ltd., and Respondent No.5/Oriental Insurance Co.Ltd., within a period of eight weeks from the date of receipt of a copy of this judgment.



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vi) Apportionment and disbursement of compensation to be done as per award of tribunal.

vii) Registry to send back the records along with a copy of this judgment.

viii) No order as to costs.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(DR.K.MANMADHA RAO)
JUDGE

BNV

List No.: 1 Sl No.: 61