



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.4348/2020 (MV-I)

BETWEEN:

A. PRADEEP
S/O LATE ARJUN
AGED 31 YEARS
R/AT NO.100, 1ST MAIN ROAD
1ST CROSS, VINAYAKANAGAR
ADUGODI POST, BANGALORE-30.

...APPELLANT

(BY SRI. SHRIPAD V. SHASTRI, ADV.,)

AND:

1. THE MANAGER
TATA AIG GENERAL INSURANCE CO., LTD.,
NO.69, 2ND FLOOR, J P AND DEVI
JAMBUKESHWAR ARCADE
MILLERS ROAD, BANGALORE-52.
2. MR. MANIKANTAN M.S.
S/O SUBRAMANI M.R.
NO.609, MARUTHINAGAR
GUBBALALA, BANGALORE-61.

...RESPONDENTS

(BY SRI. Y.P. VENKATAPATHI, ADV., FOR R1
V/O/DTD:18.02.2022, NOTICE TO R2 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, AGAINST THE JUDGMENT AND AWARD DATED 21.12.2019 PASSED IN MVC NO.1865/2018 ON THE FILE OF THE XI ADDITIONAL SMALL CAUSES JUDGE AND ACMM, COURT OF SMALL CAUSES, MEMBER, MACT-12, BENGALURU SCCH-12, 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 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 21.12.2019 passed in M.V.C.No.1865/2018 by the XI Additional Small Causes and Additional MACT, Bengaluru (for short 'the Tribunal') seeking for enhancement of compensation.

2. Though this appeal is listed for admission, with the consent of learned counsel for the parties, it is taken up for final disposal.



3. The brief facts leading to filing of this appeal is that the appellant filed a claim petition before the Tribunal under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on the ground that the appellant met with a road accident on 09.03.2018 and the accident was caused due to the actionable negligence of the driver of the autorikshaw bearing registration No.KA-02-AC-6281. It is averred that the appellant was working as a Coolie and used to earn Rs.700/- per day and due to the disability suffered in the road accident, the appellant has lost his earning capacity and hence, sought compensation under different heads. The respondent No.1 filed objections denying the negligence, liability and the disability suffered by the appellant. The Tribunal framed the points for consideration and recorded the evidence of the parties. The appellant examined himself as PW-1, one Dr.Avinash Parthasarathy as PW-2 and got marked Exs.P1 to P53. The respondents did not adduce any evidence. The Tribunal, on appreciation of the evidence awarded



total compensation of Rs.21,90,000/- with interest @ 6% p.a. from the date of petition till realization. Being aggrieved, the appellant is seeking for higher compensation.

4. Sri.Shripad V.Shastri, learned counsel for the appellant submits that the Tribunal has erred in assessing the income of the injured at Rs.9,000/- p.m., it has failed to award compensation under the head of loss of future prospects as the appellant has sustained disability to the extent of 100%. It is submitted that the appellant has lost marriage prospects and hence, he would be entitled to the compensation under the said head. It is further submitted that the appellant has suffered functional disability of 100% as it is the case of paraplegia and he needs a regular attendant during his life time. Hence, the compensation under the head of attendant charges for the remaining life is required to be calculated and awarded. Hence, he seeks to allow the appeal.



5. *Per contra*, Sri.Y.P.Venkatapathi, learned counsel for respondent No.1-Insurance Company supports the impugned judgment and award of the Tribunal and submits that the appellant failed to produce any evidence to substantiate the income and hence, the Tribunal has rightly assessed the income. It is submitted that the award of compensation by the Tribunal on other heads is just and proper and there is no scope for enhancement. Hence, he seeks to dismiss the appeal.

6. We have heard the arguments of learned counsel for the appellant, learned counsel for the respondent No.1 and meticulously perused the material available on record including Tribunal records.

7. 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?"



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

(a) The parties to the proceedings are not in dispute that the appellant met with a road accident on 09.03.2018 and sustained functional disability to the extent of 100%. It is also not in dispute that the respondent No.1-Insurance Company is liable to pay the compensation.

(b) The Tribunal, considering the averments in the claim petition, has assessed the income of the injured at Rs.9,000/- p.m. It is to be noticed that the appellant has failed to substantiate that his income was Rs.700/- per day, by producing cogent and acceptable evidence before the Tribunal. In the absence of proof of income, this Court shall consider the income of the injured notionally at Rs.12,500/- p.m. placing reliance on the notional income chart prepared by the Karnataka State Legal Services Authority. The Tribunal has assessed the functional



disability of the appellant at 100%. Hence, the appellant would be entitled to an addition of 40% of the assessed income under the head of loss of future prospects. There is no dispute with regard to the applicable multiplier of 17 as the injured was aged about 29 years at the time of accident.

(c) The oral evidence as well as the documentary evidence on record indicate that the appellant was a Coolie at the time of accident and due to the injury suffered in the road traffic accident, the appellant sustained burst fracture T-012 with paraplegia and was admitted at Sri Krishna Hospital, Bangalore, took conservative treatment. The evidence of PW-2 and other documentary evidence on record indicate that the appellant has sustained grievous injuries and suffered functional disability to an extent of 100%. The evidence of PW-2 indicates that para spinal muscle spasm present, restriction of forward flexion, extension, rotation and lateral bending, difficulty in climbing stairs, squatting, kneeling and sitting cross legs,



tenderness over T11 to L-1 spinous process, grade 2/5 muscle power in all muscle groups in both lower limbs, total loss of sensation of lower limbs, etc. However, no cogent material is placed before the Court to support the testimony of PW-2. Hence, we are of the view that the charges for daily attendant cannot be given merely on the basis of the testimony of PW-2 without any supporting material. However, considering the nature of the injuries suffered by the appellant, we are of the considered view that a lumpsum amount of Rs.2,00,000/- may be granted under the head of attendant charges, food, nourishment and conveyance charges.

(d) It is contended that the appellant was unmarried at the time of accident and due to 100% disability suffered by him he has lost the marriage prospects. Hence, considering the submission and age of the injured-appellant, we are of the view that it would be appropriate to award Rs.3,00,000/- under this head.



(e) The Tribunal has awarded Rs.50,000/- under the head of loss of amenities. Taking note of the injuries and the disability suffered by the appellant and also keeping in mind that the appellant was an inpatient for a period of 23 and he needs regular follow up, it would be appropriate to award Rs.1,00,000/- under the aforesaid head as against Rs.50,000/- awarded by the Tribunal. For the preceding analysis, the compensation is re-assessed as under:

HEADS	AMOUNT (in Rs.)
Pain and suffering	1,00,000
Loss of income during laid up period	54,000
Loss of future income due to disability (12,500 + 40% x 12 x 17 x 100%)	35,70,000
Loss of amenities	1,00,000
Loss of marriage prospects	3,00,000
Medical expenses	1,47,479
Attendant charges, food, nourishment and conveyance charges	2,00,000
Total	Rs.44,71,479



Thus, the appellant-claimant shall be entitled to a total compensation of **Rs.44,71,479/-** as against Rs.21,90,000/- awarded by the Tribunal.

9. In the result, this Court proceeds to pass the following:

ORDER

- a) The appeal is ***allowed in part.***
- b) The impugned judgment and award dated 21.12.2019 passed by the Tribunal in M.V.C.No.1865/2018 is modified to an extent that the appellant-claimant would be entitled to total compensation of **Rs.44,71,479/-** as against Rs.21,90,000/- 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.

Draw the modified award accordingly.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE