



CNR: KAHC010123722024

NC: 2026:KHC:46355
MFA No. 1425 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO.1425 OF 2024(MV-I)

BETWEEN:

VINAY L.,
S/O LOKESH,
AGED ABOUT 19 YEARS,
R/AT SINGARAJIPURA VILLAGE,
CHANNAPATNA TALUK,
RAMANAGARA DISTRICT - 562 117.

...APPELLANT

(BY SMT. NITHYA ABHILASH, ADVOCATE FOR
SRI. PRAKASH M H., ADVOCATE)

AND:

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KUMAR
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1. CHOLA MS. GEN. INS. CO. LTD.,
OFFICE AT NO.4, 9TH FLOOR,
LEVEL-06, GOLDEN HEIGHTS COMPLEX,
59TH 'C' CROSS,
INDUSTRIAL SUBURB,
RAJAJINAGAR, 4TH 'M' BLOCK,
BANGALORE - 560 010.
REP BY ITS MANAGER.
2. SRI. ASHWATH C.N.,
S/O NANJUNDAIAH,
MAJOR,



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R/AT CHEELURU VILLAGE,
MARALAWADI HOBLI,
KANAKAPURA TALUK,
RAMANAGARA DISTRICT - 562 117.

3. SRI. SRINIVAS,
S/O GIRIYAPPA,
R/AT DEVARA KAGGALAHALLI VILLAGE,
HAROHALLI HOBLI,
RAMANAGARA DISTRICT - 562 117.

...RESPONDENTS

(BY SRI. PRADEEP B., ADVOCATE FOR R1,
R2 AND R3 SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:06.12.2023
PASSED IN MVC NO.1134/2021 ON THE FILE OF THE XIX
ADDITIONAL JUDGE, COURT OF SMALL CAUSES AND ACMM,
BENGALURU CITY (SCCH-17), 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 T.M.NADAF



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ORAL JUDGMENT

This appeal by the claimant calling in question the Judgment and Award dated 06.12.2023, passed by the XIX Addl. Judge, Court of Small Causes, Addl. Chief Metropolitan Magistrate, Bengaluru¹, in MVC No.1134/2021, seeking enhancement of compensation.

2. The date of accident, involvement of vehicle and injury suffered by the claimant are not in dispute. The only dispute is with regard to inadequate compensation.

3. Heard, Ms.Nithya, learned counsel appearing on behalf of Sri.Prakash.M.H, learned counsel for the claimant and Sri.B.Pradeep, learned counsel appearing for respondent No.1 – Insurer.

4. The sheet anchor contention of learned counsel Ms.Nithya, is that the Tribunal considering the Judgment of the Hon'ble Supreme Court in **MALLIKARJUN VS. DIVISIONAL MANAGER, NATIONAL INSURANCE**

¹ The Tribunal, for short



COMPANY LIMITED AND ANOTHER², awarded compensation of Rs.4,90,000/- with interest @ 6% per annum from the date of petition till realization, in respect of the injuries suffered in the accident resulting in disability @ 90% to the whole body.

5. Learned counsel further submits that in view of the law laid down by the Hon'ble Supreme Court in **HITESH NAGJIBHAI PATEL VS. BABABHAI NAGJIBHAI RABARI AND ANOTHER³**, the notional income of an adult is required to be considered while awarding compensation in case of injury suffered by the minor. In the case on hand, the claimant is minor, but is an adolescent, aged 16 years. Hence, the notional income fixed under the chart prepared by the Karnataka State Legal Services Authority for settling the disputes before Lok-Adalat is required to be considered by adding 40% towards future prospectus and by taking 100% disability

² (2014) 14 SCC 396

³ 2025 SCC ONLINE SC 3446



to the whole body, the compensation awarded under the head 'loss of future income' required to be awarded.

6. Further, Ms.Nithya submits that considering the age of the claimant, the compensation awarded under the head 'pain and suffering' and 'loss of amenities' are very meager, even the Tribunal has not considered the case for awarding 'loss of marriage prospectus', so also 'loss of income during laid up period' not awarded any compensation, under the head 'food, nourishment, attendant charges, convenience' not awarded separately. With this, learned counsel sought to allow the appeal and enhance the compensation.

7. Sri.B.Pradeep, with equal vehemence argued in support of the Judgment and Award passed by the Tribunal, contending that the Tribunal as per the law laid down by the Hon'ble Supreme Court in the case of **MALLIKARJUN** (supra), awarded appropriate compensation. As such the same does not require any



enhancement. However, learned counsel fairly submits that in view of law laid down by the Hon'ble Supreme Court in **HITESH** (supra), the claimant may be entitled for appropriate compensation.

8. Having considered the rival submissions, this Court perused the entire appeal paper.

9. Admittedly, the claimant in this claim petition was a minor boy aged 16 years. The law is no more *res integra* in view of settled position by the Hon'ble Supreme Court in **HITESH NAGJIBHAI PATEL VS. BABABHAI NAGJIHAI RABARI AND ANOTHER**. In paragraph No.9 of the Judgment, the Hon'ble Supreme Court, has held that, the monthly income of a minor must be considered on the notional income of a person fixed in minimum wages. Further, the Hon'ble Supreme Court has considered to award Rs.3,00,000/- towards 'loss of marriage prospectus' and 'pain and suffering' at Rs.5,00,000/- and 'loss of amenities' at Rs.2,00,000/- and



enhanced the compensation from Rs.8,65,000/- awarded by the High Court to Rs.35,90,489/-.

10. In that view of the matter, the notional income fixed under the Chart supra in respect of adult required to be considered, which would be Rs.15,000/- per month with respect to year of accident i.e., 2021. In view of law laid down by the Hon'ble Supreme Court in **HITESH** (supra), 40% is required to be added towards future prospectus and considering the age of the claimant, appropriate multiplier would be '18' as he was aged 16 years as on the date of accident.

11. The doctor who has been examined as PW.3, has stated in paragraph Nos.4 to 7, which reads as under:

*"4. **Skull X-ray** done on 25.10.2022 revealed features of right fronto temporal craniotomy*

*5. **Nerve Conduction Study** done on 25.10.2022 revealed features of right brachial plexopathy post ganglionic.*

*6. I have assessed his disability as per the Disability Assessment and Certification Guidelines issued by DGHS, GOI during 2001 and 2018. **As per the Guidelines, he has a modified Rankin Score of 3.***



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This amounts to a disability of around 51% to 60%. He as an addition 10% disability due to anaesthesia in right upper limb. Using telescoping method, this results in a total disability of around 55% to 63%. This disability is pertaining to whole body and is likely to be permanent.

7. I am submitting the following documents:

- a. OPD records from Padmashree Diagnostics, Bangalore.*
- b. Skull X-ray Report with Film*
- c. Nerve Conduction Study Report*
- d. Print out of Disability Assessment and Certification Guidelines."*

12. The evidence of the doctor is not shaken in the cross-examination and he stood firm.

13. Further, the Tribunal at paragraph No.23 of its Judgment, has stated the pathetic condition of the claimant, which reads as under:

"23. By applying the said precedent to the present case on hand, in this case the petitioner sustained injuries and lost his control over the right hand. The entire right upper limb even though connected to the body has lost his control and just hanging with the body. For a student right side hand is important organ of his body and for a student the right hand place very important role to build up his carrier. Now as the petitioner lost his control over the right upper limb, he has to look after for alternative skills for his future. There is a high chances of taking and in



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need of a helper/scribe or assistance to write any exams. Hence, this court is of the opinion that the disability has to be taken upto 90% by considering the avocation and age of the petitioner."

14. The claimant was a student as on the date of accident, lost entire control over the right hand and the same has now remained only for ornamental sake. The Tribunal has considered that the claimant is not in a position to write anything by using right hand and lost his prospectus as a student. In that view of the matter, though the Tribunal has considered the disability at 90%, the same would definitely come in the way of earning which would be loss of 100% and the same is required to be considered while awarding compensation.

15. Further, the Tribunal has erred in awarding inadequate compensation under the head 'pain and suffering' 'loss of amenities in life' and not awarded any compensation under the head loss of marriage prospectus. In that view of the matter, this Court proceeds to re-assess the compensation, which is as under:



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SL. NO.	PARTICULARS	COMPENSATION AWARDED BY THIS COURT (IN RS.)
1	Loss of future income due to disability	45,36,000-00 (15,000+40%x12x18)
2	Pain and Suffering	5,00,000-00
3	Loss of amenities	2,00,000-00
4	Loss of marriage prospectus	3,00,000-00
5	Food, nourishment, attendant charges, and special diet	1,00,000-00
6	Loss of income during laid up period	60,000-00 (15,000x4)
	TOTAL	56,96,000-00

16. Accordingly, the claimant is entitled for enhanced compensation of **Rs.52,06,000/-** (56,96,000 – 4,90,000) With interest @ 6% per annum from the date of petition till realization. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

1. The appeal is ***allowed***.



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2. The Judgment and Award dated 06.12.2023, passed by the XIX Addl. Judge, Court of Small Causes, Addl. Chief Metropolitan Magistrate, Bengaluru, in MVC No.1134/2021, is modified and the compensation is enhanced.
3. The claimant is entitled for enhanced compensation of **Rs.52,06,000/-**, which shall carry interest @ 6% per annum from the date of petition till realization.
4. Respondent No.1 – Insurer shall deposit the entire enhanced compensation along with accrued interest supra, before the concerned Tribunal within six weeks from the receipt of certified copy of this order.
5. Upon deposit, 30% of the deposited amount shall be released in favor of the claimant on proper identification, balance 70% shall be deposited in any FDR with any nationalized



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Bank for an initial period of 05 years, renewable
for two terms of 05 years each.

6. The Bank shall not grant any loan on the
deposited amount, without there being any
order from the Court/Tribunal.

7. The claimant is entitled to withdraw the interest
accrued on the deposit amount, quarterly.

8. The Trial Court record secured, be transmitted
to the Tribunal forthwith, without causing
further delay.

9. No order as to costs.

Sd/-
(T.M.NADAF)
JUDGE

TKN
List No.: 1 Sl No.: 14
ct-vn