



NC: 2026:KHC:28946-DB
MFA No.4463 of 2018
C/w MFA No.3603 of 2018

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.4463/2018 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL No.3603/2018 (MV)

M.F.A.No.4463/2018:

BETWEEN:

SMT.REKHA
AGED ABOUT 27 YEARS
W/O CHANDRA MADIVALA
R/AT KATGERE BAIL
KONI VILLAGE, KUNDAPURA TALUK
UDUPI DISTRICT-576 217

...APPELLANT

(BY SRI NAGARAJA HEGDE, ADVOCATE)

MFA No.3603/2018:

BETWEEN:

SRI DINESH
S/O MUTTA
AGED ABOUT 38 YEARS
R/AT KORGU POST & VILLAGE
KUNDAPURA TALUK- 572 101

...APPELLANT

(BY SRI K.PRASANNA SHETTY, ADVOCATE)

AND:

1. SRI VYBHAV N. YADAV
AGED ABOUT 26 YEARS
S/O ANANDA RAO YADAV
R/AT PLOT NO.22B, SAIBABA COLONY
BOPAR ROAD, DESAI PADA



DOMBAVALI EAST, DOMBAVALI
MAHARASHTRA-641 011.

2. THE NEW INDIA ASSURANCE CO. LTD.,
DIVISIONAL OFFICE
SRI RAM ARCADE
OPP. H.P.O, UDUPI-576 101
REP. BY ITS DIVISIONAL MANAGER.

...RESPONDENTS
(COMMON)

(BY SRI P.B.RAJU, ADVOCATE FOR R2; R1 SERVED)

M.F.A.No.4463/2018 IS FILED U/S 173(1) OF MV ACT PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 07.12.2017 PASSED IN M.V.C.NO.563/2014 ON THE FILE OF THE ADDITIONAL DISTRICT JUDGE AND ADDITIONAL MACT, UDUPI, (SITTING AT KUNDAPURA), KUNDAPURA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

M.F.A.No.3603/2018 IS FILED U/S 173(1) OF MV ACT PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 28.06.2017 PASSED IN M.V.C.NO.71/2015 ON THE FILE OF THE ADDITIONAL DISTRICT JUDGE AND MEMBER ADDITIONAL MACT, UDUPI, (SITTING AT KUNDAPURA), KUNDAPURA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THESE MISCELLANEOUS FIRST APPEALS COMING ON FOR HEARING, 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)

Being aggrieved by the judgments and awards dated 07.12.2017 and 28.06.2017 passed in M.V.C.No.563/2014 and M.V.C.No.71/2015 respectively, by the Additional District Judge and Additional MACT, Udupi (Sitting at Kundapura), Kundapura



(for short, 'Tribunal'), the appellants have filed these appeals seeking enhancement of compensation.

2. M.F.A.No.4463/2018 is filed by the appellant-claimant seeking enhancement of compensation for the injuries suffered in a road accident and M.F.A.No.3603/2018 is filed by the appellant seeking enhancement of compensation for the damages caused to his Auto-rickshaw bearing Registration No.KA-20-A-9290 in the said accident.

3. Since both the appeals arise out of the same accident that occurred 10.05.2014 at 11.00 hours near Nataraj Bar on NH-66, Beejady village, they are taken up together for disposal. The appellant in M.F.A.No.4463/2018 is referred to as claimant and the appellant in M.F.A.No.3603/2018 is referred to as owner of the Auto-rickshaw respectively. Since the respondents are common, they will be referred to as per their rankings before the Tribunal.

4. Sri Nagaraja Hegde, learned Counsel appearing for the claimant submits that, the Tribunal has committed grave error in assessing the disability of the claimant on the lower side as well as failed to award the compensation under the



head of loss of future prospects of the injured. He has further submitted that award of compensation by the Tribunal under the head of loss of earning during the treatment period, loss of amenities, award of compensation amount on miscellaneous heads is also on lower side, as the injured was inpatient for about 48 days and undergone treatment as well as surgery. Hence, he seeks to allow the appeal.

5. Sri K.Prasanna Shetty, learned Counsel for the owner of the auto-rickshaw submits that the Tribunal considering the evidence on record has awarded Rs.44,690/- as compensation to the damages caused to auto-rickshaw with interest at 6% per annum. However, it failed to take note of the fact that the auto-rickshaw was kept in the garage for a period of five months. Hence, for the said loss, no compensation is awarded.

6. Per contra, Sri P.B.Raju, learned Counsel appearing for respondent No.2/Insurance Company supports the impugned judgments and awards of the Tribunal and submits that taking note of the oral and documentary evidence, the Tribunal has awarded just compensation to the claimant and there is no scope to enhance the same. He further submits that



no evidence is placed to substantiate that the auto rickshaw was kept in the garage and there is loss of income. Hence no compensation can be awarded. Therefore, he seeks to dismiss the appeals.

7. We have heard the arguments of Sri Nagaraja Hegde, learned Counsel appearing for the claimant, Sri K.Prasanna Shetty, learned Counsel appearing for the owner and Sri P.B.Raju, learned Counsel for respondent No.2 and meticulously perused the material available on record including the Tribunal records.

8. The points that would arise for consideration in the appeals are:

- “(i) *Whether the judgment and award passed by the Tribunal in M.V.C.No.563/2014 calls for any interference?***
- (ii) Whether the judgment and award passed by the Tribunal in M.V.C.No.71/2015 calls for any interference?”***

9. The above points are answered in the affirmative for the following:

REASONS

10. The claimant as well as respondent No.2 are not in dispute that the claimant met with a road accident on



10.05.2014 and sustained grievous injuries as well as fractures. It is not in dispute between the parties that the accident was due to the actionable wrong by the vehicle insured with respondent No.2. It is also not in dispute that in the accident, Auto-rickshaw bearing Registration No.KA-20-A-9290 also suffered damages and respondent No.2 is liable to pay the compensation.

M.F.A.No.4463/2018 (M.V.C.No.563/2014) :

11. It is to be noted that the claimant examined herself as PW.1. She examined Dr.Madhusudhan Naik as PW.2 and Dr.K.Bhavani Rao as PW.3 and got marked Exs.P1 to P25. Respondent No.2 did not adduce any oral as well as documentary evidence. The Tribunal considering the oral and documentary evidence has awarded compensation of Rs.18,29,950/- with interest rate of 6% per annum.

12. On perusal of the oral evidence of PW.2 which clearly indicates that the doctor has considered Ex.P4 the wound certificate and other medical records, has deposed before the Tribunal, that the claimant has sustained permanent physical disability to the extent of 71% to whole body and considering the evidence of doctor, the Tribunal has rightly



assessed the disability at 71%. In our considered view, the same is in consonance with the oral and the documentary evidence on record.

13. It is to be noted that the claimant has failed to produce any cogent or acceptable evidence before the Tribunal with regard to her income. Hence, her income is notionally assessed at Rs.8,500/- for the purpose of determination of compensation placing reliance on the notional income chart prepared by the Karnataka State Legal Services Authority.

14. Taking note of the nature of injuries suffered and disability considered by the Tribunal, this Court is of the view that the claimant would be entitled to addition of 40% of the assessed income under the head of loss of future prospects of the injured. The injured was aged about 26 years at the time of accident and suffered disability to the extent of 71% to the whole body. The applicable multiplier to the said age group is 17. Hence the compensation under the head of loss of future earnings is reassessed and the same would be as Rs.8,500/- + (40% of Rs.8,500) Rs.3,400= Rs.11,900/- x 71% x 12 x 17= **Rs.17,23,596/-.**



15. Since the medical expenses are awarded as per the medical bills, the same does not call for any interference. The oral evidence as well as documentary evidence on record indicates that the claimant was inpatient for a period of 48 days and suffered the fractures referred to in Ex.P4. Considering the same, we are of the view that the award of compensation by the Tribunal on the head of loss of earning during the treatment period is on the lower side as well as the award of compensation on the head of loss of amenities and other miscellaneous heads is also required to be appropriately enhanced. Hence, the just compensation payable is as follows:

Sl. No.	Heads	Amount in Rs.
1	Pain & sufferings	1,50,000/-
2	Medical expenses	2,86,966/-
3	Future medical expenses	25,000/-
4	Loss of earning during laid up period Rs.8,500/- x 4	34,000/-
5	Loss of earning capacity due to disability	17,23,596/-
6	Loss of amenities	60,000/-
7	Food, attendant, nourishing & conveyance Expenses	25,000/-
	Total	23,04,562/-
	Less awarded by the Tribunal	18,29,950/-
	Enhanced compensation	4,74,612/-



16. Thus, the claimant shall be entitled to total compensation of **Rs.23,04,562/-** as against Rs.18,29,950/- awarded by the Tribunal.

M.F.A.No.3603/2018 (M.V.C.No.71/2015) :

17. In support of his case, the owner of the auto-rickshaw got examined himself as PW.1 and one eyewitness as PW.2 and got marked 13 documents as Exs.P1 to P13.

18. Insofar as compensation to the damaged vehicle is concerned, the Tribunal taking note of the PW.1's oral evidence, the evidence of PW.2 and by considering Exs.P1 to P13 has awarded Rs.44,690/- as compensation for the damage caused to the vehicle involved in the accident.

19. It is to be noted that the owner of the Auto-rickshaw would have spent some amount towards the transportation to reach the garage from his place and admittedly the vehicle would have been kept in the garage for considerable duration. Hence he would have spent amount towards the conveyance as well as loss of his livelihood for certain period. Considering the same, interest of justice would be met if additional global compensation of Rs.20,000/- is awarded to the owner without interest.



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

ORDER

The appeals are ***allowed in part.***

(i) The impugned judgment and award in M.F.A.No.4463/2018 is modified as follows:

- (a) The appellant-claimant would be entitled to total compensation of **Rs.23,04,562/-** as against Rs.18,29,950/- awarded by the Tribunal.
- (b) The enhanced compensation amount shall carry interest at the rate of 6% per annum from the date of petition till the date of payment.
- (c) The 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 certified copy of this judgment.

(ii) The impugned judgment and award in M.F.A.No.3603/2018 is modified as follows:

- (a) The appellant-claimant/owner would be entitled to global compensation of **Rs.20,000/-** which shall carry no interest



in addition what has been awarded by the Tribunal.

(b) The Insurance Company shall deposit the said amount before the Tribunal within a period of six weeks from the date of receipt of certified copy of this judgment.

(iii) On such deposit, the entire compensation amount shall be released in favour of the appellants.

(iv) Registry shall transmit the records to the Tribunal forthwith.

(v) Draw modified award accordingly.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE