



CNR: KAHC010148332022

NC: 2026:KHC:41939
MFA No. 2870 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.2870 OF 2022(MV-I)

BETWEEN:

SRI UDAYA MARAKALA
S/O CHANDRASHEKAR MARAKALA &
SMT LAKSHMI MARAKALATHI
AGED ABOUT 36 YEARS,
R/AT PARAMPALLI VILLAGE & POST SALIGRAMA
UDUPI TALUK & DISTRICT

...APPELLANT

(BY SRI. NAGARAJA HEGDE, ADVOCATE)

AND:

1. SRI MOHAMMED ASHRAF
S/O MOIDINABBA,
AGED ABOUT 49 YEARS,
R/O H NO 3-144,
KODI KANYANA VILLAGE
UDUPI TALUK & DISTRICT
2. ICICI LOMBARD GENERAL INSURANCE CO LTD
BRANCH OFFICE, 2ND FLOOR
SVR COMPLEX, HOSUR MAIN ROAD
BENGALURU-560 068
REP BY ITS BRANCH MANAGER

...RESPONDENTS

(BY SRI. B.C. SHIVANNE GOWDA, ADVOCATE FOR R2,
R1 - MOHAMMED ASHRAF SERVED)

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



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THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 14.12.2021 PASSED IN MVC NO. 108/2019 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND ADDITIONAL MACT, UDUPI, 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 RAJESH RAI K

ORAL JUDGMENT

The claimant, being dissatisfied with the compensation of Rs.2,19,800/- awarded by the Tribunal in MVC.No.108/2019 vide judgment and award dated 14.12.2021 , is in appeal.

2. The fact that the accident occurred and the further fact that the claimants has sustained injuries in the said accident are not in dispute.

3. The Tribunal, on assessment of evidence, has awarded the following sums as compensation:

Sl. No.	Particulars	Amount in (Rs.)
1.	Pain and suffering including mental agony	20,000
2.	Loss of future earning capacity due to disability	1,17,600



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3.	Medical expenses	50,174
4.	Conveyance charges	15,000
5.	Food, nourishment and attendant charges	15,000
6.	Loss of income during treatment period	2,000
	Total	2,19,774
	Rounded off to	2,19,800

4. The Tribunal, on an analysis of medical evidence, has concluded that the claimant has suffered disability to the extent of 7% to the whole body. Having regard to the injuries suffered by the claimant and having regard to the assessment of disability of the claimant by the Doctor at 22.03%, I deem it just and appropriate to assess the disability at 14%.

5. The Tribunal has determined the monthly income, notionally at Rs.10,000/-. Since there is no credible documentary evidence to ascertain the actual monthly income, it would be appropriate and prudent to adopt the monthly income determined by Karnataka State Legal Services Authority, which, for the accident of the year 2018, would be **Rs.12,500/-**



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6. Though the claimant had produced his Voter ID before the Tribunal, inadvertently, the same has not been marked as exhibit. As the same is available on record, on perusal of the same, the age of the claimant as on 01.01.2002 was 18 years. Hence, it is evident that as on the date of accident, the claimant was aged 34 years.

7. As the claimant was aged 34 years, a multiplier of '16' would have to be applied. Consequently, the claimant would be entitled to a sum of **Rs.3,36,000/-** (Rs.12,500 x 12 x 16 x 14%) towards '*loss of future income*'.

8. As a consequence, the amount of Rs.2,000/- awarded by the Tribunal towards '*loss of income during the laid up period*' would also stand enhanced to **Rs.37,500/-** (Rs.12,500 X 3 months) treating the laid up period as three months.

9. Having regard to the lasting effects of the injuries on the claimant, I deem it appropriate to award a sum of **Rs.30,000/-** towards '*loss of amenities*'.



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10. Having regard to the injuries suffered by the claimant, I deem it just and appropriate to award a sum of **Rs.50,000/-** towards '*pain and suffering*' as against Rs.20,000/- awarded by the Tribunal.

11. The sum of **Rs.50,174/-** awarded by the Tribunal towards medical expenses, being based on documentary evidence, is affirmed.

12. The sums awarded under the head '*conveyance charges*', and '*food, nourishment and attendant charges*' being just and proper, are affirmed.

13. However, the Tribunal has saddled the entire negligence of payment of compensation to respondent No.1- owner of the offending vehicle by exonerating the Insurance Company. I have perused the entire evidence and documents placed before the Tribunal. On careful examination of evidence, the claimant in this case was traveling in a goods auto at relevant point of time and he was carrying the fish belongs to him, however, the said vehicle was hired by one Krishnapujari. In such circumstances, the Tribunal has held that the coverage



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of insurance policy is limited and same has not been extended to the unauthorized passenger in a goods vehicle. The Hon'ble Apex Court in ***Kaminiben and Others v. The Oriental Insurance Company and Others***, reported in **2026 ACJ 447**, while dealing with a similar factual situation and keeping in view the benevolent object and social welfare purpose underlying the provisions of the Motor Vehicles Act, has held that the insurer would be liable to satisfy the award even in cases where the deceased/injured was travelling in the goods vehicle as a gratuitous passenger.

14. In this regard, it is profitable to refer paragraph No.10 of the said judgment, which reads as under:

"10. *In the present case, the deceased was travelling in the subject tempo along with a Ganesh idol, which was being taken for immersion in the Narmada River. Thus, the dominant purpose for hiring the vehicle was not for travelling but for carrying the Ganesh idol for immersion. Travelling in the vehicle was only incidental; therefore, at best, the deceased can be treated as a gratuitous passenger travelling with his goods (Ganesh idol). This being the circumstance, we rely on the judgment in the matter of Manuara Khatun & Ors., wherein this Court has held thus in paragraph Nos.15 and 16:*



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"15. This question also fell for consideration recently in National Insurance Co. Ltd. v. Saju P. Paul, wherein this Court took note of the entire previous case law on the subject mentioned above and examined the question in the context of Section 147 of the Act. While allowing the appeal filed by the insurance company by reversing the judgment of the High Court, it was held on facts that since the victim was travelling in the offending vehicle as a 'gratuitous passenger', the insurance company cannot be held liable to suffer the liability arising out of the accident on the strength of the insurance policy. However, this Court, keeping in view the benevolent object of the Act and other relevant factors arising in the case, issued directions against the insurance company to pay the awarded sum to the claimants and then to recover the said sum from the insured in the same proceedings by applying the principle of 'pay and recover'."

emphasis supplied

15. Moreover, the Division Bench of this Court in the case of **United India Insurance Co., Ltd. v. Baiju - LAWS(KAR) 2008 8 18**, in similar circumstances, held in paragraph Nos.7 and 8 as under:

"7. Further, on careful perusal of the contents of Ex.D1, insurance policy, it could be seen that the



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insurer has collected under it from the insured premium of Rs. 200/- as "WC to employee 8" and Rs. 75/- as "employees others" along with other sums under other heads. In view of the established fact that P.W.3 Abubakker the claimant in M.V.C. No. 517/03 was travelling in the said tempo as cleaner-cum-loader, he comes under the category of employee under Workmen's Compensation Act, 1923, and the injured claimant Baiju who was travelling as an agent of P.W.2 comes under the category of the persons travelling in the goods vehicle along with the goods inasmuch as he had hired the said tempo on behalf of his said principal (P.W.2) for transportation of goods i.e., fish, from Malpe to Calicut and therefore he was taking the said tempo from Calicut to Malpe for the said purpose by travelling in it.

8. *Therefore, we are of the considered view that since the injured Abubakker Siddique was travelling in the said tempo at the relevant time of accident as cleaner-cum-loader under the employment of the owner of the said tempo and the injured Baiju was travelling in it as an agent of P.W.2 by hiring the said tempo for the purpose of transportation of fish, it could not be held that the said two injured claimants were travelling in the said tempo as gratuitous passengers as contended by the Learned Counsel for the appellant — insurer. This being so, the appellant — insurer, as rightly held by the Tribunal, is liable to pay the compensation awarded in favour of both the injured claimants in the said cases."*

16. In the above judgment, the Division Bench of this Court held that though the claimant was traveling as an agent of the person who hired the tempo for the purpose of transportation of fish, the policy covers and the Insurance Company is liable to pay the compensation for the person who was traveling in the goods vehicle along with the goods



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inasmuch as he had hired the said tempo on behalf of the principal for transpiration of goods. In such circumstance, the Insurance Company cannot be totally exonerated from the liability. Accordingly, the finding of the Tribunal in respect of liability is modified.

17. Consequently, the award of the Tribunal is modified and the claimant would be entitled to the following compensation:

Sl. No.	Compensation under different Heads	As awarded by the Tribunal (Rs.)	As awarded by this Court (Rs.)
1.	Pain and suffering including mental agony	20,000	50,000
2.	Loss of future earning capacity due to disability	1,17,600	3,36,000
3.	Medical expenses	50,174	50,174
4.	Conveyance charges	15,000	15,000
6.	Food, nourishment and attendant charges	15,000	15,000
6.	Loss of income during treatment period	2,000	37,500
7.	Loss of amenities	-	30,000
	Total	2,19,800	5,33,674



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18. Thus, the claimant is held entitled to the total compensation of **Rs.5,33,674/-** as against Rs.2,19,800/-, along with interest at the rate of 6% per annum from the date of petition till its realization.

19. As discussed above, respondent No.2-Insurance Company being the insurer of respondent No.1 shall initially pay the compensation to the claimant and subsequently recover the same from respondent No.1.

20. The Insurance Company is directed to deposit the amount of compensation awarded within six weeks from the date of receipt of a certified copy of this judgment.

The appeal is accordingly ***allowed in part.***

**SD/-
(RAJESH RAI K)
JUDGE**

HKV
List No.: 1 Sl No.: 14