

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.4360/2019 (MV-I)

BETWEEN:

SRI. MANOJ KUNDALAGIRI K.S.
S/O SUBBANNACHAR K.S.
AGED ABOUT 29 YEARS
R/AT. 82, "SRI KRISHNA"
2ND STAGE, JNANABHARATHI
BEHIND K H B PLATINUM APARTMENT
KENGARI UPANAGAR
BENGALURU 560060.

...APPELLANT

(BY SRI. SURESH M. LATUR, ADV.,)

AND:

1. SRI. CHANDRA N.P.
M/S KRISHNA AGENCIES
39/3, K.K. PURA ROAD
BSK 2ND STAGE
BENGALURU 560070.
2. THE MANAGER
UNITED INDIA INSURANCE CO. LTD.,
REGIONAL OFFICE
5TH AND 6TH FLOOR
KRISHI BHAVAN
NRUPATHUNGA ROAD

Digitally signed
by RUPA V

Location: HIGH
COURT OF
KARNATAKA

HUDSON CIRCLE
BENGALURU 560002.

...RESPONDENTS

(BY SRI. SURESH K, ADV., FOR R2
R1 SERVICE OF NOTICE IS D/W V/C/O DTD:13.01.2021)

THIS MFA IS FILED U/S 173 (1) OF MV ACT, PRAYING THAT THE JUDGMENT AND AWARD PASSED BY THE COURT OF XXII ADDITIONAL SMALL CAUSES JUDGE AND XX ACMM, MEMBER MACT BENGALURU, IN MVC 5432/2017 DATED 28.12.2018 MAY KINDLY BE MODIFIED AND ALLOW THIS APPEAL BY ENHANCING THE COMPENSATION OF RS.17,32,000/- WITH 8% INTEREST PER ANNUM MAY KINDLY BE GRANTED IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED ON 15.07.2026, COMING ON FOR PRONOUNCEMENT OF JUDGMENT, THIS DAY **VIJAYKUMAR A. PATIL J.**, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL)

This appeal is filed by the injured-claimant seeking enhancement of compensation being aggrieved by the judgment and award dated 28.12.2018 passed in M.V.C.No.5432/2017 by the XXII Additional Small Causes Judge and XX Additional Chief Metropolitan Magistrate & M.A.C.T., Bengaluru (SCCH-24), (for short, 'the Tribunal').

2. The brief facts leading to filing of this appeal is that on 22.08.2017, the appellant-claimant was riding a Suzuki Access 125 bearing registration No.KA-05-KB-9252 on Nice Road. When he reached near Purvankar Apartments, a 407 Lorry bearing registration No.KA-05-A-7772 was parked negligently on the road without observing the rules of parking. The claimant was unable to see the vehicle which was parked and dashed against it from behind. Due to the impact, the claimant suffered grievous injuries and was shifted to Shreya Hospital, Bengaluru, and then to Fortis Hospital, Bengaluru, wherein he was treated as an inpatient from 23.08.2018 to

30.08.2018 for a period of 8 days. The claimant underwent surgery and got inserted implants. It is averred that the claimant was aged about 27 years, he was working as a Senior System Engineer and was earning Rs.1,10,000/- p.m. and due to the disability sustained by the claimant, his future career and marital life have been compromised.

3. The respondent No.1 was placed *ex parte* before the Tribunal. The respondent No.2 appeared through his counsel, filed the statement of objections, denied all the averments made in the petition specifically with regard to issuance of insurance policy in respect of the offending vehicle and also denied the negligence on the part of the driver of the said vehicle. It is averred that the rider of the motorcycle was riding in a negligent manner and dashed the rear right side of the lorry. It is further averred that the driver of the lorry did not possess a valid driving licence, a valid permit as well as fitness certificate of the vehicle. The respondent No.2 sought for dismissal of the petition.

4. The Tribunal framed necessary issues and recorded the evidence. The claimant examined two witnesses namely PW-1 and PW-2 and got marked documents as Exs.P1 to P21. The respondents did not adduce any evidence. The Tribunal, on appreciation of the evidence on record, awarded total compensation of Rs.2,68,000/- with interest at the rate of 8% p.a. and directed the respondent No.2 to deposit the compensation. Being aggrieved, the claimant has preferred this appeal seeking for higher compensation.

5. Sri.Suresh.M.Latur, learned counsel for the appellant submits that the Tribunal, without appreciating the oral and documentary evidence in its proper perspective, has awarded the compensation on the lower side under the heads of pain and suffering, food and nourishment, conveyance, attendant charges and medical expenses. It is submitted that the Tribunal has not awarded any compensation under the heads of loss of income during treatment period, loss of future earnings and future medical expenses. In support of the aforesaid

contentions, he has filed memos along with the decisions. However, he placed reliance on the following decisions only:

- (1) ***NEW INDIA ASSURANCE CO. LTD. Vs. DURGAPPA AND OTHERS***¹
- (2) ***B KOTHANDAPANI Vs. TAMIL NADU STATE TRANSPORT CORPORATION LTD.***²
- (3) ***ERUDHAYA PRIYA Vs. STATE EXPRESS TRANS. CORPN. LTD.***³
- (4) ***SONI SHARMA Vs. ORIENTAL INSURANCE CO. LTD.***⁴

6. *Per contra*, Sri.Suresh K., learned counsel for the respondent No.2-Insurance Company supports the impugned judgment and award of the Tribunal and submits that the Tribunal has awarded just compensation and does not require any interference.

7. We have heard the arguments of the learned counsel appearing for the appellant, learned counsel for the respondent No.2 and meticulously perused the material available on record including the Tribunal records.

¹ 2017 ACJ 2600

² 2011 ACJ 1971

³ 2020 ACJ 2159

⁴ 2026 ACJ 109

8. The only point that would arise for consideration in this appeal is:

"Whether the judgment and award passed by the Tribunal calls for any interference?"

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

(a) The injured claimant filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.20,00,000/- by contending that on 22.08.2017, he was riding a Suzuki Access 125 bearing registration No.KA-05-KB-9252 on Nice Road. When he reached near Purvankar Apartments, a 407 Lorry bearing registrarion No.KA-05-A-7772 was parked negligently on the road without observing the rules of parking and without any indicator. Hence, the claimant was unable to see the vehicle which was parked and dashed against it from the hind side. Due to the impact, the claimant suffered grievous injuries and was shifted to Shreya Hospital, Bengaluru, and then to Fortis Hospital, Bengaluru, wherein he was treated as an inpatient from

23.08.2018 to 30.08.2018 for a period of 8 days. The claimant underwent surgery and got inserted implants. The claimant was aged about 27 years, was working as a Senior System Engineer and was earning Rs. 1,10,000/- p.m. and due to the disability sustained by him, his future career and marital life have been compromised.

(b) In order to prove the income, disability and the injuries suffered in the road accident, the claimant examined himself as well as Dr.Manjunath K.L. and produced documentary evidence. The evidence of PW-1 indicates that he has continued with his earlier employment even after the accident, however, it is deposed that due to the accidental injuries and the leave he had availed, he lost the opportunity of getting promotion and also hike in salary. PW-1 has been cross-examined at length. In the cross-examination, PW-1 has admitted that some salary has been increased even after the accident. It is required to be noticed that the appellant had not examined his employer to substantiate the contention that due to the disability suffered by him in

the road accident, his ability to work has reduced, his salary is reduced and the promotional avenues have stopped. In the absence of any such evidence before the Tribunal, this Court cannot accept the contention of the learned counsel for the appellant that the injured is entitled to the compensation under the head of loss of future earning due to disability. The evidence of the appellant itself makes it clear that there is increase in the salary even after the accident.

(c) The evidence of PW-2 Dr.Manjunath K.L. indicates the nature of injuries and the fracture suffered by the appellant. The said Doctor has assessed permanent physical impairment to an extent 38% for the left leg, 10% for the upper limb and 16% to the whole body. The said assessment of PW-2 with regard to disability is again without any basis. Though the evidence of PW-2 indicates that it would be difficult for the appellant to work as a Senior System Engineer, we are of the view that the said evidence of PW-2 to the aforesaid extent cannot be accepted in view of the fact that even after the

accident and the disability stated to have been suffered by the appellant, he continued with his employment and his salary has also increased. Hence, the contention of the learned counsel of the appellant under the head of loss of future income due to disability cannot be considered.

(d) With regard to the contention of the learned counsel for the appellant that the appellant would be entitled to the compensation under the head of marriage prospects is required to be rejected as there is no evidence on record to come to the conclusion that the appellant is unable to marry due to the disability suffered by him in the aforesaid accident. It is also to be noticed that the appellant has sustained injuries to the limbs and those fractures and injuries are cured after treatment. Hence, the contention that such disability would come in the way of his marriage, has no merit.

(e) The decision of this Court relied on by the appellant's counsel in the case of **NEW INDIA ASSURANCE CO. LTD. Vs. DURGAPPA** referred *supra*, is

a case where the injuries suffered by the injured were grievous in nature and the Tribunal had awarded only Rs.20,000/- towards loss of marriage prospects and had enhanced the compensation appropriately. The said decision is based on the facts and circumstances of the said case and cannot be applied to the case on hand. In the case of **B KOTHANDAPANI** referred *supra*, the Hon'ble Supreme Court has considered the earlier judgments and awarded compensation under various heads. However, the said decision does not indicate that even if the claimant continued with his employment, he would be entitled to compensation under the head of loss of future earning due to disability. In the case of **ERUDHAYA PRIYA** referred *supra*, the Hon'ble Supreme Court has held that loss of future prospects must be applied in the case of the appellant considering the disability of 31%. In the said case, the dispute was mainly with regard to applicability of correct multiplier and considering the said aspect, the Hon'ble Supreme Court while allowing the appeal has held that the appellant in the

said case would be entitled to the compensation under the head of loss of future prospects and it was not a case where the claimant continued with the employment after disability. In the case of **SONI SHARMA** referred *supra*, the Hon'ble Supreme Court at paragraphs 11 and 12 observed that at the time of accident, the appellant was serving in the Indian Army, a profession which demands highest standards of physical fitness, alertness and endurance, any impairment or disability due to accident is not only the personal affliction but one that has a direct bearing on his ability to effectively discharge his duties. In the case on hand, there is no evidence on record to come to the conclusion that the disability suffered by the appellant has a direct bearing on his ability to work and his efficiency to discharge duties has been reduced. Hence, the said decision of the Hon'ble Supreme Court is distinguishable on facts.

(f) The appellant, in his cross-examination before the Tribunal has clearly admitted that he is working in MaxLinear Technologies Pvt. Ltd. for the last 4 years as a

Senior System Engineer and compared to the previous year's salary, there is slight increase in the salary for the present year. The said evidence clearly indicates that even after the road traffic accident and the aforesaid disability, the appellant continued to work as an Engineer and his salary has also increased. Hence, in the absence of any evidence that his efficiency has been reduced and the disability has a direct bearing on his job, the compensation under the head of loss of future earning due to disability cannot be granted.

(g) The Tribunal, considering the oral and documentary evidence has awarded compensation under the head of pain and suffering, loss of amenities and marriage prospects. In our considered view, after re-appreciation of the evidence, the compensation under the aforesaid heads are required to be enhanced appropriately by awarding some amount towards future medical expenses by considering the evidence of PW-2 who has assessed that the approximate cost for future surgery would be around Rs.1,40,000/-. Hence, we re-assess the

compensation under the head of pain and suffering at Rs.1,50,000/- and loss of amenities at Rs.1,00,000/-. The compensation awarded by the Tribunal towards food, attendant and conveyance charges and medical expenses is unaltered. The Tribunal has not awarded any compensation under the head of loss of income during laid up period as the appellant was admitted for 8 days in the hospital and post discharge, he was required to take rest to recover. Hence, it would be appropriate to award compensation under the said head. Further, Rs.50,000/- is awarded under the head of future medical expenses. The re-assessed compensation is as under:

HEADS	AMOUNT (in Rs.)
Pain and suffering	1,50,000
Loss of amenities in life	1,00,000
Medical bills	62,922
Food, nourishment and conveyance charges	25,000
Loss of income during laid up period	1,00,000
Future medical expenses	50,000
TOTAL	4,87,922

10. Thus, the appellant-claimant shall be entitled to total compensation of **Rs.4,87,922/-** as against

Rs.2,68,000/- awarded by the Tribunal. The enhanced compensation amount carries interest at the rate of 9% p.a. in view of the decision of the Co-ordinate Bench of this Court in the case of ***SRI.BIMAL GOGAI AND ANOTHER Vs. MANAGING DIRECTOR, BMTC***⁵ .

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

ORDER

- a) The appeal is ***allowed-in-part***.
- b) The impugned judgment and award of the Tribunal dated 28.12.2018 passed in M.V.C.No.5432/2017 by the Tribunal, is modified to an extent that the appellant-claimant would be entitled to total compensation of **Rs.4,87,922/-** as against Rs.2,68,000/- awarded by the Tribunal.
- c) The enhanced compensation amount shall carry interest at the rate of 9% per annum

⁵ MFA No.10401/18 & con. appeal dt.09.06.26

from the date of petition till the date of payment.

- d) 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.
- e) The entire compensation amount shall be released in favour of the appellant-claimant.
- f) The Registry to transmit the TCR to the Tribunal forthwith.

Draw modified award accordingly.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

RV