



CNR: KAHC010177022021

NC: 2026:KHC:43962
MFA No. 2211 of 2021
C/W MFA No. 4128 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.2211 OF 2021(MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO.4128 OF 2021(MV-I)

IN MFA No. 2211/2021

BETWEEN:

SRI OMPRAKASH C.P @ PRAKASH
S/O SRI PRABHU
AGE ABOUT 36 YEARS
PRO. OM SAI RAM BAKERY / CONDIMENTS
R/O KALIDASA NAGARA
CHIKMAGALURU

...APPELLANT

(BY SRI. VINOD GOWDA, ADVOCATE)

AND:

1. SRI AKSHAY KUMAR
S/O SRI SURESHA
AGED ABOUT 29 YEARS
R/O GOWRIKALUVE
CHIKKAMAGALURU CITY - 577 101
2. THE MANAGER
NEW INDIA ASSURANCE CO.,LTD.,

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



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BRANCH OFFICE
PANDURANGA COMPLEX
K.T. STREET,
CHIKKAMAGALURU

...RESPONDENTS

(BY SRI. NAIK KRISHNA VENKATRAMAN, ADVOCATE FOR R1,
SRI. C.R. RAVISHANKAR, ADVOCATE FOR R2)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 30.01.2021 PASSED IN MVC
NO.504/2019 ON THE FILE OF II ADDITIONAL SENIOR CIVIL
JUDGE AND MACT, CHIKKAMAGALURU, PARTLY ALLOWING THE
CLAIM PETITION FOR COMPENSATION SEEKING
ENHANCEMENT OF COMPENSATION.

IN MFA NO. 4128/2021

BETWEEN:

THE NEW INDIA ASSURANCE CO., LTD.,
BRANCH OFFICE, PANDURANGA COMPLEX
K.T STREET, CHIKMAGALUR

REPRESENTED BY
THE NEW INDIA ASSURANCE CO LTD
MOTOR THIRD PARTY CLAIMS HUB
NO.9, 2ND FLOOR,
MAHALAKSHMI CHAMBERS
M.G ROAD, BANGALORE-560 001
REPRESENTED BY DEPUTY MANAGER

...APPELLANT

(BY SRI. RAVISHANKAR C.R, ADVOCATE)

AND:



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1. SRI OMPRAKASH C P @ PRAKASH
AGED ABOUT 36 YEARS
S/O SRI PRABHU
PROP. OM SAI RAM BAKERY/CONDIMENTS
PERMANENTLY R/AT
KALIDASA NAGAR,
CHIKKMAGALUR CITY

PRESENTLY R/AT NO.5. 3RD FLOOR
22ND 'A' MAIN ROAD, 18TH CROSS
J.P NAGAR, 5TH PHASE
BANGALORE -560 078

2. SRI AKSHAY KUMAR
AGED ABOUT 31 YEARS,
S/O SRI SURESHA
NEWSPAPER AGENT
R/AT GOWRIKALUVE
CHIKMAGALURU CITY

...RESPONDENTS

(BY SRI. VINOD GOWDA, ADVOCATE FOR R1,
SRI. K.V. NAIK, ADVOCATE FOR R2)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST
THE JUDGMENT AND AWARD DT.30.01.2021 PASSED IN
MVC NO.504/2019 ON THE FILE OF THE II ADDITIONAL
SENIOR CIVIL JUDGE AND MACT, CHIKKAMAGALURU,
AWARDING COMPENSATION OF RS.12,19,330/- WITH
INTEREST AT 8 PERCENT P.A. FROM THE DATE OF
PETITION TILL THE DATE OF PAYMENT.

THESE APPEALS, COMING ON FOR ADMISSION, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



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CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

1. These two appeals are arise out of judgment and award dated 30.01.2021 passed in MVC No.504/2019 by the II Additional Senior Civil Judge and MACT, Chikkamagaluru (for brevity, 'the Tribunal'), whereby the Tribunal partly allowed the claim petition filed by the claimant and awarded a compensation of the Rs.12,19,330/- along with 8% interest. M.F.A.No.2211/2021 is preferred by the claimant and M.F.A.No.4128/2022 is preferred by the insurance company.

2. The fact that the accident occurred and the further fact that the offending vehicle was insured is not in dispute.

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

Sl. No.	Particulars	Amount in (Rs.)
1.	Towards pain and sufferings	30,000
2.	Towards conveyance charges	15,000
3.	Towards food, nourishment and attendant charges	6,000



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4.	Towards loss of future earning on account of permanent disability	10,88,830
5.	Towards amenities	40,000
6.	Towards injuries	30,000
7.	Towards medical expenses	1,000
8.	Loss of income during laid up period	8,500
	Total	12,19,330

4. The Tribunal, on analysis of the medical evidence, has concluded that the claimant has suffered permanent disability to the extent of 13% to the whole body.

5. I have perused the evidence of the Doctor - PW.2 and the wound certificate/disability certificate. The same depicts that the claimant has suffered from tenderness and inability to move the right lower limb, old fracture surgery at right lower limb, subtrochantric fracture at right femur.

6. Since the Doctor has assessed the disability of permanent and physical impairment at 38%, considering the nature and injuries suffered by the claimant, the disability assessed by the Doctor and the claimant cannot walk without the help of a



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walking stick, I deem it just and appropriate to reassess the disability at 15% instead of 13% as assessed by the Tribunal. Accordingly, the disability suffered by the claimant would be at 15%.

7. As far as the income of the injured is concerned, the Tribunal has taken the monthly income of the injured at Rs.43,623/- by placing the reliance on Exs.P15 to P17. On careful examination of the profit and loss auditing report and balance sheet for the years 2017-18 and 2018-19 and income tax return acknowledgement for the assessment year 2019 - 2020. The net income of the claimant are that for the year 2017-2018 is Rs.3,91,686/-, for the year 2018-19 Rs.5,23,482/- and for the year 2019-20 Rs.3,23,480/-. Thus, the average income of the petitioner could be calculated at Rs.4,12,882/- per year which is divided by 12 i.e., Rs.34,406/- monthly income. The same is taken for consideration the income.

8. As the claimant was aged 34 years, the Tribunal has rightly applied a multiplier of '15'. Consequently, the claimant would be entitled to a sum of **Rs.9,90,892/-** (34,406 x 12 x



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16 x 15%) towards '*loss of future income*' as against sum of Rs.10,88,830/- awarded by the Tribunal.

9. Having regard to the nature of injuries suffered by the claimant, the claimant would be entitled to **Rs.1,03,218/-** (34,406 X 3 months) towards '*loss of income during the laid up period*' as against sum of Rs.8,500/- awarded by the Tribunal.

10. Having regard to the injuries suffered by the claimant, the claimant would be entitled to a sum of **Rs.50,000/-** towards '*pain and suffering*' as against Rs.30,000/- awarded by the Tribunal.

11. The sum awarded as medical expenses at **Rs.1,000/-** being based on the documentary evidence, do not call for modification and hence confirmed.

12. The sums awarded under other heads of compensation granted by the Tribunal, remains unaltered.

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



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Sl. No.	Compensation under different Heads	As awarded by the Tribunal (Rs.)	As awarded by this Court (Rs.)
1.	Towards pain and sufferings	30,000	50,000
2.	Towards conveyance charges	15,000	15,000
3.	Towards food, nourishment and attendant charges	6,000	6,000
4.	Towards loss of future earning on account of permanent disability	10,88,830	9,90,892
5.	Towards amenities	40,000	40,000
6.	Towards medical expenses	1,000	1,000
7.	Loss of income during laid up period	8,500	1,03,218
	Total	12,19,330	12,06,110

14. Thus, the claimant is held entitled to the total compensation of **Rs.12,06,110/-** as against Rs.12,19,330/-. However, in view of the judgment of the Division Bench of this Court in the case of **Ms. Joyeeta Bose and others vs. Venkateshan V., and others** in **M.F.A.No.5896/2018**, the



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Tribunal ought to have awarded the 6% interest instead of 8%. Accordingly, the interest awarded by the Tribunal is modified and the claimants are entitled for 6% interest for the compensation amount.

15. The Insurance Company is directed to deposit the compensation amount, together with accrued interest, within a period of six weeks from the date of receipt of a certified copy of this judgment.

16. The apportionment of compensation amount shall be in terms of the award of the Tribunal.

17. The both the appeals are accordingly ***disposed of.***

The amount in deposit if any, shall be transmitted to the Tribunal.

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

CR/List No.: 1 SI No.: 7