



CNR: KAHC010183262025

NC: 2026:KHC:42996
MFA No. 2031 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 2031 OF 2025 (MV-I)

BETWEEN:

SRI. ABHISHEK C.D
S/O SRI.DEVE GOWDA
AGED ABOUT 31 YEARS
R/AT NO.72, CHANNAPPANADODDI,
KOTHATHI HOBLI, BELUR,
MANDYA -DISTRICT

AND ALSO AT NO.531, 3RD MAIN,
8TH CROSS, AYYAPPA TEMPLE ROAD,
VENKATAPURA, KORAMANGALA,
BENGALURU - 560 034.

...APPELLANT

(BY SRI. UDAYA KUMAR R.L, ADVOCATE)

AND:

Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI

Location: HIGH
COURT OF
KARNATAKA

1. SRI. ANIL KUMAR,
S/O MAHAVIR SINGH, MAJOR
R/AT V.P.O. HARIPUR PALUWAS, BHIWASNI,
HARYANA - 127 021.
2. THE NEW INDIA ASSURANCE COMPANY LTD,
UNITY BUILDING, MISSION ROAD,
BENGALURU - 560 027.

...RESPONDENTS

(BY SMT. MALATHI T.N, ADVOCATE FOR R2;
VIDE ORDER DATED 18.07.2025, NOTICE TO R1 IS
DISPENSED WITH)



NC: 2026:KHC:42996
MFA No. 2031 of 2025

CNR: KAHC010183262025

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 02.03.2024 PASSED IN MVC NO. 5755/2022 ON THE FILE OF THE MEMBER, MACT, XVIII ADDITIONAL JUDGE, COURT OF SMALL CAUSES, BENGALURU, SCCH-4, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed by the claimant challenging the Judgment and Award dated 02.03.2024 passed in MVC No.5755/2022 by XVIII Additional Judge, Court of Small Causes, Bengaluru (SCCH-4). The appellant/claimant has challenged the finding of contributory negligence to the extent of 40% attributed to him and also seeking enhancement of compensation awarded.

2. Even though the matter is listed today for orders/admission, with the consent of both the learned counsel for appellant and learned counsel for respondent No.2/insurer, the matter is taken up for disposal.



CNR: KAHC010183262025

NC: 2026:KHC:42996
MFA No. 2031 of 2025

3. The appellant/claimant made a claim petition seeking for award of compensation for the injury sustained by him in a road traffic accident occurred on 07.10.2021 contending that the accident occurred due to rash and negligent driving by the driver of Tempo bearing registration No.HR-61-D-6194.

4. The Tribunal recorded the evidence adduced by the parties and upon appreciating the evidence on record, assessed the compensation and awarded the compensation under various heads as under:

Sl. No.	Particulars	Amount
1.	Loss of future income	Rs. 3,67,200/-
2.	Loss of income during the laid up period and one attendant charge	Rs. 30,000/-
3.	Conveyance charges	Rs. 15,000/-
4.	Pain, sufferings and loss of amenities	Rs. 1,20,000/-
5.	Food and nourishment	Rs. 40,000/-
6.	Medical bills	Rs. 55,824/-
	Total	Rs. 6,28,024/-



CNR: KAHC010183262025

5. The Tribunal has held that the claimant has contributed to the accident and assessed his negligence at 40% and after deducting 40% in a total compensation awarded Rs.3,76,814/- with interest at the rate of 6% per annum from the date of petition till realisation and directed respondent No.2/insurer to pay the compensation awarded with interest. The claimant has filed the present appeal challenging the said contributory negligence attributed to the claimant and also seeking enhancement of compensation.

6. Heard the learned counsel for appellant and learned counsel for respondent No.2/insurer.

7. Learned counsel for the appellant would contend that, the charge sheet has been filed against the driver of Tempo and that itself indicates that the whole rash and negligent driving is attributed to the driver of Tempo. Merely because the accident occurred in the centre point of the junction, it cannot be said that there is



CNR: KAHC010183262025

contributory negligence on the part of the claimant. The driver of the Tempo was entering the junction and dashed against the claimant's vehicle, he ought to have been careful while entering the junction. Therefore, the contributory negligence attributed to the claimant at 40% is not proper. The entire negligence on the part of the driver of Tempo which is insured with respondent No.2.

8. He further contended that, the claimant who has sustained knee injury has underwent operation and therefore the compensation awarded for loss of income during laid up period and attendant and conveyance charges are on lower side. The claimant has been admitted in hospital for eleven (11) days. With these, he prayed to allow the appeal.

9. Learned counsel for respondent No.2/insurer would contend that, the accident occurred at the center in a junction and considering the same, the Tribunal has rightly held that the claimant has also contributed to the



accident and his negligence is rightly assessed at 40%. The compensation awarded on all heads is just and proper and there are no grounds for enhancement. With these, he prayed for dismissal of the appeal.

10. Having heard the learned counsel for appellant/claimant and learned counsel for respondent No.2/insurer, the Court has perused the Judgment, Award and certified copies of the evidence and documents made available by the learned counsel for appellant.

11. The accident occurred on 07.10.2021 at about 02.30 a.m. i.e., in the midnight. Ex.P4 is the Spot Mahazar of the accident and it has been enclosed with the sketch of the spot of the accident. On perusal of the said sketch, the accident has taken place in a junction. The claimant who was riding his motorcycle has entered the said junction and when he was crossing the road in the said junction, at that time, the driver of the Tempo entered the junction and dashed into the motorcycle of the claimant. The



CNR: KAHC010183262025

accident occurred at the point where the driver of the Tempo was entering the said junction. Ex.P3 - charge sheet has been filed only against the driver of the Tempo for the offences punishable under Sections 279 and 337 of Indian Penal Code, 1860.

12. Considering the above aspects, the entire rash and negligent driving is attributed to the driver of the Tempo. Therefore, the Tribunal erred in holding that the claimant has also contributed to the accident and assessed his negligence at 40%. The entire negligence is on the part of the driver of the Tempo. Therefore, the said finding of the Tribunal requires to be set aside.

13. The claimant is seeking enhancement of compensation only under the head loss of income during laid up period and conveyance charges.

14. The claimant has been admitted in the hospital for eleven (11) days. The Tribunal has rightly awarded conveyance charges in a sum of RS.15,000/- and awarded



Rs.30,000/- towards loss of income during laid up period. The Tribunal has taken the income at Rs.15,000/- and the said loss of income during laid up period awarded is for two (02) months.

15. Considering the injuries sustained by the claimant i.e., right knee soft tissue injury with complete ACL tear itself indicates that the claimant has to take rest at least for three (03) months. Therefore, the claimant is entitled to loss of income during laid up period in a sum of Rs.45,000/- (Rs.15,000/- X 3 months).

16. Therefore, the claimant is entitled to enhanced compensation of Rs.15,000/- with interest at the rate of 6% per annum from the date of petition till realisation.

17. The claimant is entitled to the compensation as determined by the Tribunal in a sum of Rs.6,28,024/- and enhanced compensation of Rs.15,000/- with interest at the rate of 6% per annum from the date of petition till realisation.



18. Respondent No.2/insurer is liable to pay the compensation and enhanced compensation amount with interest.

19. The claimant is not entitled to interest for the delay period of 275 days in filing the appeal as per order dated 12.08.2026 passed on I.A.No.1/2025.

20. In view of the above, the following:

ORDER

- i) *Miscellaneous First Appeal is **allowed-in-part.***
- ii) *The appellant/claimant is entitled to the compensation assessed by the Tribunal in a sum of Rs.6,28,024/- and enhanced compensation of Rs.15,000/- with interest at the rate of 6% per annum from the date of petition till realisation.*
- iii) *Respondent No.2/insurer shall deposit the said compensation and enhanced compensation amount with interest before*



CNR: KAHC010183262025

**NC: 2026:KHC:42996
MFA No. 2031 of 2025**

the Tribunal within a period of six weeks from this day.

- iv) The appellant/claimant is not entitled to interest for delay period of 275 days in filing the appeal.*
- v) The appellant/claimant is entitled to release of entire compensation assessed by the Tribunal and enhanced compensation with interest.*

**Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE**

KLV
List No.: 2 Sl No.: 8