



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.2358 OF 2023 (MV-I)

BETWEEN:

PRASHANTH S. PANDY,
AGED ABOUT 52 YEARS,
S/O. SHRIPALA PADDY,
R/AT.2-99B, AMBALA PADAVU,
KANTHAVARA VILLAGE AND POST,
KARKALA TALUK-574 129.

...APPELLANT

(BY SRI. PAVANA CHANDRA SHETTY H., ADVOCATE)

AND:

1. M/S SHASHANK CASHEW INDUSTRIES,
MANAGING PARTNER,
MR. HAREEDRA PAI,
PILATHABETTU VILLAGE,
NAINADU,
BANTWAL TALUK-574 324.

2. THE DIVISIONAL MANAGER,
THE NEW INIDA ASSURANCE CO.LTD.,
DIVISIONAL OFFICE,
UDUPI DISTRICT.

...RESPONDENTS

(BY SRI.C.R. RAVISHANKAR, ADVOCATE FOR R2,
VIDE ORDER DATED 17.04.2023,
NOTICE TO R1 IS DISPENSED WITH)

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VIJAYALAKSHMI
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Location: HIGH
COURT OF
KARNATAKA





THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 02.01.2023 PASSED IN MVC NO. 221/2022 ON THE FILE OF THE SENIOR CIVIL JUDGE AND ACJM, KARKALA, 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 S.G.PANDIT
and
HON'BLE DR. JUSTICE K.MANMADHA RAO

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE K.MANMADHA RAO)

This appeal is by the appellant/claimant seeking for enhancement of compensation arising out of judgment and award dated 02.01.2023 in MVC No.221/2022, passed by the Court of Senior Civil Judge and ACJM at Karkala, Udupi (for short, 'Tribunal').

2. The parties are referred to as per their ranking before the Tribunal for easy reference.

3. The brief facts of the case are that:-



On 01.10.2021 at about 2.30 p.m., the petitioner was riding his Hero Honda Splendor Two Wheeler bearing Reg.No.KA-20-EF-8081 from Kanthavara Village towards Modabidri Kadalakere via Karkala - Moodabidri National Highway, at that time, a driver of the Eicher Pro Lorry bearing Reg.No.KA-19-AB-9464 came in a rash and negligent manner and dashed against two wheeler of the petitioner, due to which, the petitioner sustained injuries and was shifted to Alvas Health Centre, Moodabidri, thereafter to AJ Hospital and Research Centre, Mangalore and was treated as an inpatient from 01.10.2021 to 15.10.2021. Hence, he filed claim petition under Section 166 of M.V. Act, 1988 seeking for compensation.

4. After issuance of notice, the respondent No.1/owner of the offending vehicle remained absent and was placed *ex-parte*. Respondent No.2/Insurance Company has appeared through its counsel and filed written statement denying the petition averments.



5. In order to substantiate the case of the petitioner, the petitioner got himself examined as PW-1 and two witnesses as PWs-2 and 3 and got marked documents at Exs.P1 to P27 and Ex.C.1 to Ex.C.3. On the other hand, respondent No.2 - Insurance Company has not adduced any oral evidence but got marked one document as Ex.R.1.

6. The Tribunal based on the material on record, awarded total compensation of ₹9,51,520/- with interest at the rate of 7% per annum from the date of petition till its realization.

7. While awarding the above compensation, the Tribunal assessed the notional income of the claimant at ₹14,250/- per month and assessed the whole body disability at 18%. The claimant/appellant not being satisfied with the above compensation is before this Court praying for enhancement of compensation.



8. Learned counsel for the respondent No.2 submits that the Tribunal after considering entire material placed before it, awarded appropriate compensation. The compensation awarded by the Tribunal is just and proper and does not call for any interference at the hands of this Court. Accordingly, sought to dismiss the appeal.

9. Heard the learned counsel appearing for the appellant and respondent No.2 and perused entire material on record.

10. The appellant submits that as per Ex.P.7 - copy of wound certificate, he has sustained following injuries:-

1. *"Laceration on the back of the right forearm in its lower one-third, 6cm x 2cm x bone deep with underlying fracture of shaft of radius and ulna [X-Ray of Right Forearm].*
2. *Reddish contusion with overlying abrasion on the back of right hand, 6cm x 5cm with underlying fracture of carpal bone [X-Ray of Right Hand].*
3. *Laceration on back of the right thumb at its back, 3cm x 0.7cm x bone deep with underlying fracture of phalanx and dislocation of metacarpophalangeal joint [X-Ray of Right Hand].*



4. *Laceration on front of left leg in its upper end, 5cm x 1cm x bone deep with underlying fracture of shaft of tibia [X-Ray of Left Leg].*
5. *Laceration on left great toe, 1cm x 0.8cm x bone deep with underlying fracture of interphalangeal joint [X-Ray of Left Foot]."*

The petitioner was treated as an inpatient for a period of 14 days in A J Hospital and Research Centre, Mangalore.

11. On hearing the learned counsel for the parties and perusal of the entire records, it is not in dispute that appellant has sustained fractures stated *supra*. The appellant has examined the treated Doctor as PW-2, who has stated that petitioner has suffered disability to an extent of 24% to the right upper limb and 32% to the left lower limb. The Tribunal has rightly assessed the disability of the appellant at 18% to the whole body. The appellant was inpatient for 14 days in A J Hospital and Research Centre, Mangalore and taking note of the injuries suffered and treatment taken, we are of the considered view that



the Tribunal has erred in not awarding the compensation amount under the head 'loss of amenities'.

12. Considering the nature of injuries and fractures sustained by the appellant, it is just and appropriate to award a sum of **Rs.50,000/-** under the head 'loss of amenities'. The compensation amount awarded by the Tribunal under all other heads are just and reasonable.

13. In all, the total compensation re-determined by this Court under various heads is as follows:

Towards pain and sufferings	Rs.	1,10,000/-
Towards Conveyance, Attendant charges and nourishing food	Rs.	30,000/-
Towards loss of income during laid up period	Rs.	42,750/-
Medical expenses	Rs.	3,80,190/-
Loss of future income	Rs.	3,38,580/-
Future medical expenses	Rs.	50,000/-
Loss of amenities	Rs.	50,000/-
Total Compensation	Rs.	10,01,520/-



14. On re-determination, the appellant is entitled for total compensation of **Rs.10,01,520/-** as against Rs.9,51,520/- along with interest at the rate of 7% per annum from the date of petition till realization. Respondent No.2 – Insurance Company is directed to deposit the compensation amount within eight weeks from the date of filing of the petition till realization.

15. Accordingly, we proceed to pass the following:

ORDER

- i) The appeal is ***disposed of.***
- ii) The judgment and award passed by the Tribunal in MVC No.221/2022 dated 02.01.2023 by the Court of Senior Civil Judge and ACJM at Karkala, Udupi, is hereby modified holding that the claimant is entitled for total compensation of **Rs.10,01,520/-** along with interest @ 7% p.a. from the date of petition till its realization.



- iii) The compensation amount along with accrued interest if any, shall be deposited by the respondent No.2 – Insurance Company, within eight weeks from the date of filing of the petition till realization;
- iv) Upon deposit, entire amount shall be released in favour of appellant on proper identification in terms of award.
- v) Registry is directed to transmit the TCR along with copy of this judgment to the Tribunal forthwith.
- vi) No order as to costs.

SD/-
(S.G.PANDIT)
JUDGE

SD/-
(DR.K.MANMADHA RAO)
JUDGE