



CNR: KAHC010196482017

NC: 2026:KHC:48909
MFA No. 958 of 2017
C/W MFA No. 6201 of 2016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.958 OF 2017 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO.6201 OF 2016(MV-I)

IN MFA No. 958/2017

BETWEEN:

MR NAGESH U @ NAGESH SHETTY
S/O LATE CHANDU SHETTY U,
AGED ABOUT 66 YEARS,
R/AT DOOR NO.3-132,
SRUTHI NILAYA,
NEAR RAILWAY GATE,
MURA, PUTTUR TALUK,
D.K.DISTRICT - 574 208.

...APPELLANT

(BY SRI RAVISHANKAR SHASTRY G., ADVOCATE)

AND:

1. PUSHPARAJ SHETTY
S/O SANJEEVA SHETTY,
AGED ABOUT 43 YEARS,
R/AT DASH MARKETING CO.,
KALLARE, PUTTUR TALUK,
D.K.DISTRICT - 574 204.
2. THE DIVISIONAL MANAGER
ORIENTAL INSURANCE CO. LTD.,
KRISHNA PRASAD BUILDING
MAIN ROAD, PUTTUR,

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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D.K.DISTRICT - 574 201.

...RESPONDENTS

(BY SRI OM PRASHANTHA, ADVOCATE AND
SRI SY SHIVALLI, ADVOCATE FOR R2;
V/O DTD 09.06.2026 NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 20.05.2016 PASSED IN MVC
NO.1513/2014 ON THE FILE OF THE IV ADDITIONAL DISTRICT &
SESSIONS JUDGE, MEMBER, MACT, D.K., MANGALURU, PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

IN MFA NO. 6201/2016

BETWEEN:

THE ORIENTAL INSURANCE CO. LTD.,
KRISHNA PRASAD BUILDING
MAIN ROAD, PUTTUR.
D.K.DISTRICT - 574 201.

NOW REP BY REGIONAL OFFICE,
BENGALURU,
LEO SHOPPING COMPLEX,
NO.44/45, RESIDENCY ROAD,
REP BY ITS DEPUTY MANAGER,
BENGALURU - 560 025.

...APPELLANT

(BY SRI OM PRASHANTHA, ADVOCATE AND
SRI SY SHIVALLI, ADVOCATE)

AND:

1. SRI NAGESH U @ NAGESH SHETTY
S/O LATE CHANDU SHETTY U,
AGED ABOUT 65 YEARS,
R/AT DOOR NO.3-132,
SHRUTHI NILAYA,
NEAR RAILWAY GATE,
MURA, PUTTUR TALUK,



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D.K. DISTRICT.

2. SRI PUSHPARAJ SHETTY
S/O. SANJEEVA SHETTY,
AGED ABOUT 42 YEARS,
R/AT DASH MARKETING CO.,
KALLARE, PUTTUR TALUK,
D.K. DISTRICT.

...RESPONDENTS

(BY SRI G RAVISHANKAR SHASTRY, ADVOCATE FOR R1;
R2 - NOTICE SERVED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 20.05.2016 PASSED IN MVC
NO.1513/2014 ON THE FILE OF THE 4TH ADDITIONAL DISTRICT &
SESSIONS JUDGE, D.K., MANGALURU, AWARDING COMPENSATION
OF Rs.3,82,000/- WITH INTEREST @ 6% P.A. ON Rs.3,72,000/-
FROM THE DATE OF PETITION TILL DEPOSIT IN TRIBUNAL.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 20.05.2016
passed by IV Additional District Judge and Member MACT,
Dakshina Kannada, Mangaluru in MVC no.1513/2014, these
appeals are filed. MFA no.958/2017 is filed by claimant for
enhancement of compensation, while MFA no.6201/2016 is filed
by insurer for reduction.



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2. Brief facts leading to these appeals are that at 07.30 p.m. on 22.08.2014 when claimant was standing by side of road at Mura, Kabaka village, rider of motorcycle bearing no.KA-21-L-1606 rode it in rash and negligent manner and dashed against claimant causing accident and sustaining injuries. Despite taking treatment at City Hospital and Mangala Hospitals, Mangaluru, claimant did not recover fully and sustained permanent disability. Claiming compensation, he filed claim petition under Section 166 of Motor Vehicles Act, 1988 (**MV Act**) against owner and insurer of motorcycle.

3. Despite service of notice, owner did not appear and was placed ex-parte. Only insurer opposed appeal by filing objections denying accident, age, occupation, income, as well as disability and also alleging violation of policy conditions.

4. Based on pleadings, Tribunal framed following issues:

"1) *Whether the petitioner proves that on 22-08-2014 at about 7.30 p.m., he was standing on the mud road at Mura, Kabaka village, Puttur Taluk, the rider of the motor cycle bearing Reg. No.KA - 21-l-1606 came in rash and negligent manner and dashed him resulted in the accident?*



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- 2) *Whether the petitioner proves that the grievous injuries sustained by him in the said accident?*
- 3) *Whether the petitioner is entitled for compensation? If so, what amount and from whom?*
- 4) *What Order or award?"*

5. To substantiate his claim, claimant examined himself as PW.1 through Court Commissioner and Dr.Shridhar Shetty as PW.2 and got marked Exhibits P.1 to P.23. In rebuttal, insurer did not lead oral evidence, but got marked copy of insurance policy with consent as Exhibit R.1.

6. On consideration, Tribunal answered issues no.1 and 2 in affirmative, issue no.3 partly in affirmative and issue no.4 by awarding compensation of Rs.3,82,000/- with interest at 6% p.a., and holding insurer liable to pay same. Aggrieved, these appeals are filed.

7. Sri G Ravishankar Shastry, learned counsel for claimant submitted that as on date of accident, claimant was 63 years of age running grocery shop and had stated to be earning Rs.15,000/- per month. He sustained fracture of left clavicle apart from fracture of right tibia and fibula. He also



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sustained ligament tear. Physical disability was assessed by PW.2 resulting at 15% to limb. Though disability assessed would affect claimant to higher extent considering his age and occupation, tribunal assessed disability at only 4% and awarded inadequate compensation. Even monthly income assessed at Rs.7,500/- was on lower side. It was submitted that compensation awarded towards pain and suffering, loss of income during laid up period, conveyance and other incidental expenses, loss of amenities, future medical expenses and medical expenses were also on lower side. It was submitted that though claimant had produced medical bills for total amount of Rs.3,95,053/-, Tribunal denied compensation in excess of Rs.2,75,000/- on ground that they did not pertain to accidental injuries which was not justified. On above grounds, sought for allowing appeal.

8. On other hand, Sri Om Prashantha, learned counsel appearing for Sri SY Shivalli, advocate for insurer opposed appeal. In support of insurer's appeal, it was submitted that compensation awarded towards medical expenses was on higher side. There was repetition of bills and even canteen bills



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were added which was not justified. It was submitted, claimant had also sought to rely upon treatment records and bills in respect of non-accidental injuries. Therefore, their denial was rightly justified. It was submitted that while passing impugned award, Tribunal had considered facts and circumstances in proper perspective and assessment of compensation under each heads was just and proper and did not call for modifications. On above grounds, sought for dismissal of claimant's appeal and for allowing insurer's appeal.

9. Heard learned counsel and perused impugned judgment and award and records.

10. From above, since both claimant and insurer are seeking for modification of compensation.

11. Common point that arise for consideration is,

"Whether assessment of compensation by Tribunal calls for modification?".

12. Same is answered partly in affirmative for following reasons:



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There is no dispute about occurrence of accident, claimant sustaining injuries and loss of earning capacity. Though claimant stated that he was earning Rs.15,000/- per month from grocery shop, there is no material to substantiate said claim. In absence, Tribunal would be justified in assessing it as per notional income. But notional income for year of accident being Rs.8,500/- per month, Tribunal would not be justified in taking it at Rs.7,500/- per month. PW.2-Dr.Shridhar Shetty has assessed disability sustained by claimant at 15% to limb. In Exhibit P9 - disability certificate, restriction of right ankle movement noted is *Dorsiflexion of 0-15 degrees, plantarflexion of 0-20 degrees in respect of right ankle and in respect of left ankle at 0-30 and 0-35 degrees respectively.*

13. Considering extent of restriction of movement of right ankle, assessment of disability at only 4% by Tribunal would not be adequate. It is found appropriate to modify it to 7%. Taking age of claimant at 63 years, correct multiplier of 7. Thus, compensation towards future loss of income would be **Rs.49,980/-** (Rs.8,500/- X 12 X 7 X 7%). Claimant has sustained fracture of one structural bone and one non-structural bone. Therefore, award of Rs.30,000/- towards same



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would not be justified. It is found appropriate to enhance same to **Rs.50,000/-**. Claimant is stated to have undergone in-patient treatment for duration of 34 days. Tribunal has awarded sum of Rs.10,000/- towards food, nourishment, conveyance and other incidental expenses which appears justified. Normally, fractures take about 3 months to heal. Therefore, award of Rs.21,500/- towards loss of income during laid-up period would require enhancement of **Rs.25,500/-**. PW.2 has stated about need for one more surgery for removal of implants. Award of Rs.10,000/- towards future medical expenses would not be adequate and same is enhanced to **Rs.25,000/-**. Considering small extent of restriction of movement, award of compensation of Rs.10,000/- towards loss of amenities is held justified.

14. During course of argument, since there was dispute regarding medical bills, learned counsel were requested to go through records to assort acceptable medical bills against disputed. Learned counsel for insurer on going through exercise, submitted that there would be variation to extent of Rs.27,000/- due to repetition of bills. Learned counsel for



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claimant on other hand would submit that there is denial of medical bills for treatment of prostrate.

15. On perusal of injuries sustained in accident and as there was no injuries to prostrate, denial of compensation for treatment of same by Tribunal would be justified. Inclusion of canteen bills in medical bills, when separate compensation was awarded towards food, nourishment and other incidental expenses would not be justified. Thus, there appears to be excess award. It is found justified for reduction of compensation towards medical expenses to **Rs.2,50,000/-**. Thus, total compensation would be Rs.4,20,480/- rounded off to **Rs.4,20,500/-**. Thus, following:

ORDER

- (i) Both appeals are ***allowed in part***;
- (ii) Compensation modified from Rs.3,82,000/- to Rs.4,20,500/- which shall carry interest at 6% p.a. from date of petition till deposit excluding period of 151 days being delay in filing appeal.



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(iii) Amount in deposit to be transmitted to Tribunal for disbursal. Balance amount, if any, to be deposited by insurer within period of six weeks.

(iv) On deposit, entire enhanced compensation to be released in favour of claimant.

Sd/-
(RAVI V HOSMANI)
JUDGE

AV
List No.: 1 SI No.: 15