



CNR: KAHC010196552021

NC: 2026:KHC:36143-DB
MFA No. 2526 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

M.F.A.NO. 2526 OF 2021 (MV-I)

BETWEEN:

ANIL GONSALVES @ ANIL S. GONSALVES,
AGED ABOUT 41 YEARS,
S/O GEROM GONSALVES,
R/AT: MUNDAJE MANE,
PADNUR VILLAGE AND POST,
PUTTUR TALUK,
D K DISTRICT-574 220.

...APPELLANT

(BY SRI.VARUN SAI.Y., FOR SRI.B.S.SACHIN, ADVOCATES)

AND:

1. SRI.GOPAL.M,
S/O KRISHNA.M,
MAJOR,
R/O.10, SRI BHAGAVATHI NILAYA
7TH MAIN, 15TH CROSS,
HAVNOOR EXTENSION,
NAGASANDRA POST,
BENGALURU-560 073.
2. THE MANAGER,
S.B.I. INSURANCE CO. LTD.,
GROUND FLOOR AND 1ST FLOOR,
RUKMINI TOWERS 3-1,

Digitally
signed by K S
RENUKAMBA
Location:
High Court of
Karnataka



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PLATFORM ROAD,
RAILWAY APPROACH ROAD,
SHESHADRIPURAM,
BENGALURU-560 020.

...RESPONDENTS

(BY SRI.B.PRADEEP, ADVOCATE FOR R2;
R1-SERVED)

THIS MFA IS FILED U/S 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 18.03.2020 PASSED IN MVC NO.266/2017 ON THE FILE OF THE I ADDITIONAL DISTRICT JUDGE AND MACT-II, MANGALURU D.K, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

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

ORAL JUDGMENT

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

This appeal is filed by the Insurer challenging the judgment and award dated 18.03.2020 in MVC No.266/2017 passed by the I-Additional District Judge and II Additional Motor Accidents Claims Tribunal, Mangaluru, D.K. (hereinafter referred to as the Tribunal).



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2. Though this appeal is coming up for admission, with the consent of the learned counsel for the parties on both sides, the same is taken-up for final hearing.

3. The brief facts of the case are that, on 17.01.2017 at about 10.45 a.m., near Sannampady Golihottu Village, Puttur Taluk, while the appellant was proceeding on his motor cycle bearing Reg. No.KA-19/EP-1146 from Mani towards Nelyadi on NH.75, he was hit by a Car bearing Reg. No.KA. 02/MK. 2513 coming from the side of Bangalore towards Mangalore. As a result, he sustained grievous injuries and his right leg above the knee amputated.

4. We have heard the learned counsel Sri. Varun Sai Y., for Sri. B.S. Sachin, the learned counsel appearing for the appellants and Sri. B. Pradeep, the learned counsel for Respondent No.2-SBI Insurance Company Limited.

5. Sri. B.S. Sachin, the learned counsel submits that the Tribunal has committed a grave error in assessing the notional income of the appellant/injured at Rs.9,000/- per month by ignoring the documentary evidence placed by the appellant. It



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is further submitted that the appellant's right leg above the knee is amputated in the said road accident and as per the evidence of PW.2-Doctor, the disability to the right leg is 85% and 15% to the left leg and his evidence also indicates that there was a mal-union of the tibial plateau in the left lower limb. Hence, the functional disability of the appellant as considered by the Tribunal is on the lower side, as the Tribunal has considered the disability at 45% to the whole body. It is also submitted that the appellant had placed Estimate Letter at Ex.P15 for purchase of Prosthetic Device. It is submitted that the award of compensation under the head of 'pain and suffering', 'loss of amenities' and 'loss of income during the laid-up period' may be enhanced appropriately by considering the difficulty faced by the appellant/injured. Hence, he seeks to allow the appeal.

6. Per contra, Sri. B. Pradeep, learned counsel appearing for Respondent No.2/Insurance Company supports the impugned judgment and award of the Tribunal and submits that the appellant though claimed that he is a business man, however, no acceptable evidence is placed before the Tribunal



to substantiate the income. Hence, the Tribunal has rightly assessed the income at Rs.9,000/-. Further, considering the oral evidence of PW.2 and Disability Certificate (Ex.P13) on record, the Tribunal has rightly assessed the total permanent disability at 45% to the whole body. He further submits that, the appellant can continue his business activities even after attaching the artificial limb. Hence, he seeks to dismiss the appeal.

7. Having heard the learned counsel for the parties, the point that arises for our consideration is, -

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

8. The aforesaid point is answered in the affirmative for the following reasons:-

Perusal of the pleading and material on record would indicate that, on 17.01.2017 the appellant met with a road accident and the cause of accident was due to actionable negligence of the driver of the Maruthi Car bearing Registration No. KA.02/MK-2513. The jurisdictional police after investigation,



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filed charge sheet against the driver of the said car. The Tribunal considering the said aspect, recorded a finding that the accident in question has occurred due to the negligence of driver of the car and the Respondent No.2 being the insurer of the said car, is liable to pay compensation.

9. The contention of the learned counsel for the appellant is that the appellant had been carrying on the business activity of cement bricks and also hard ware. The appellant has placed reliance on the Income-tax Returns which are produced and marked as Ex.P20 and the Bank Statement is at Ex.P16. Considering the said documents, the Tribunal has recorded the finding that the Income-tax returns produced and marked at Ex.P20 pertains to period after accident and all the Income-tax Returns are of different years. We do not find any error in the finding recorded by the Tribunal for not accepting Ex.P20.

10. In the absence of any cogent and/or acceptable evidence with regard to the income of the injured, since the accident has occurred in the year 2017, we are of the opinion that it would be appropriate to determine the Income of the



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injured at Rs.11,000/- p.m., by placing reliance on the notional income chart prepared by the KSLSA. Further, the appellant is also entitled for 40% of his monthly income towards loss of his future prospects of life. In view of the above, the monthly income of the appellant on adding 40% of Rs.11,000/-, works out to **Rs.15,400/-** [Rs.11,000x40% = 4,400+11,000=15,400/-].

11. Insofar as the aspect of disability is concerned, the appellant has deposed before the Tribunal that, his right leg above the knee has been amputated and the said version is also corroborated with the evidence of PW.2-Dr. Mahabalesh Shetty, who had examined the appellant and deposed that the appellant sustained disability to the extent of 85% to the right lower limb, as his right leg above the knee is amputated. The PW.2-Doctor has also deposed that the appellant has sustained 18% disability to his left lower limb, as the fractured bone is mal-united. Considering the aforesaid evidence of PW.1 (appellant) and PW.2-Doctor, and the documents produced at Ex.P13-Disability Certificate, Ex.P14-Disability Certificate of ID Card (Petitioner) and Ex.P18-Discharge Summary, we are of the considered opinion that, the Tribunal has committed an error in



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assessing the disability at 45%, without considering disability assessed by PW.2-Doctor, in its proper perspective. The evidence on record clearly indicates that the appellant's right leg above the knee is amputated and he suffered mal-union of fracture bone in left lower limb. Hence, it would be just and appropriate to determine the functional disability of the appellant at 85% for assessment of compensation.

12. Admittedly, the appellant was treated as inpatient in the hospital for 36 days from 17.01.2017 to 23.02.2017 and underwent surgery and has also taken post-discharge treatment. Considering the aforesaid aspect and sufferings of the appellant, we are of the view that the compensation under the heads of 'pain and sufferings', 'loss of amenities and 'loss of income during laid-up period', is also required to be enhanced appropriately. Since, the multiplier '15' adopted by the Tribunal is just and appropriate, the compensation under the head of 'Loss of Future earning' of the appellant, works-out to **Rs.23,56,200/-**. [Rs.15,400x12x15x85%].

13. Further, as contended by the learned counsel for the appellant/claimant, the compensation awarded by the Tribunal



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under the heads of 'pain and suffering'; 'loss of amenities' and 'loss of income during laid-up period' is on lower side, we deem it appropriate to enhance the same as noted in the table below:-

14. The computation of re-assessed compensation is as under:-

Sl. No.	Particulars	Amount (Rs.) Awarded by Tribunal	Amount (Rs.) Re-assessed by this Court
1	Loss of future earnings [Rs.15,400x12x15x85%]	7,29,000/-	23,56,200/-
2	Medical expenses	5,50,000/-	5,50,000/-
3	Conveyance, nutritious food and attendant charges	28,000/-	28,000/-
4	Pain & suffering	75,000/-	1,00,000/-
5	Loss of amenities in life	50,000/-	1,00,000/-
6	Loss of income during laid-up period [11000x6=66000]	27,000/-	66,000/-
	TOTAL	14,59,000/-	32,00,200/-
	Enhanced compensation		17,41,200/-

15. In our view, except on the above few heads, the compensation awarded by the Tribunal under other heads, is just and appropriate and therefore, the same is left undisturbed.



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16. Further, this Court, in **SRI. BIMAL GOGAI AND ANOTHER VS. MANAGING DIRECTOR. BMTC¹** on considering various aspects has held that, in motor accident cases, the claimant would be entitled to interest at 9% p.a., on the compensation amount awarded by the Court. Therefore, in view of the above decision of this Court, we deem it appropriate to award interest at 9% p.a. on the enhanced compensation, from the date of petition till the date of realisation.

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

ORDER

- (i) The appeal is ***allowed in part.***
- (ii) The impugned judgment and award dated 18.03.2020 passed in MVC No.266/2017 by the learned I Additional District Judge and II Additional MACT at Mangaluru, D.K., is modified as under:
 - (a) The appellant-claimant would be entitled to total compensation of Rs.**32,00,200/-** (Rupees Thirty Two Thousand and Two Hundred only) as against Rs.14,59,000/- awarded by the Tribunal.
 - (b) The enhanced compensation amount of **Rs.17,41,200/-** (Rs.32,00,200 – Rs.14,59,000)

¹ MFA No.10401/2018 & MFA No.5509/2018 D/D 09.06.2026



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(Rupees Seventeen Thousand Forty One Thousand and Two Hundred only) shall carry interest at the rate of 9% per annum from the date of petition till the date of payment.

- (c) The Respondent No.2-Insurance Company shall deposit the entire 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.
- (d) The apportionment of deposit and disbursement of the enhanced compensation shall be as per the order of the Tribunal.
- (iii) Registry shall transmit the records to the Tribunal forthwith.
- (iv) Draw modified award accordingly.

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

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

KGR
List No.: 1 Sl No.: 12