



CNR: KAHC010204212019

NC: 2026:KHC:36485-DB
MFA No. 5845 of 2019
C/W MFA No. 5844 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JULY, 2026

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO. 5845 OF 2019 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 5844 OF 2019 (MV-I)

IN MFA No.5845/2019:

BETWEEN:

MRS. FAIZUNNISA
W/O NAYAZ AHMED QURESHI,
AGED ABOUT 37 YEARS,
OCC: TAILOR, R/AT NO.871,
1ST FLOOR, 3RD CROSS,
TIPPU MASJID, R.K.HEGDE NAGAR,
BENGALURU – 560 077

...APPELLANT

(BY SRI. SURESH M. LATUR, ADVOCATE)

AND:

1. MR. NAYAZ AHMED QURESHI
S/O ABDUL HAFEEZ QURESHI,
R/AT NO.871, 1ST FLOOR, 3RD CROSS,
TIPPU MASJID, R.K.HEGDE NAGAR,
BENGALURU – 560 077
2. THE MANAGING DIRECTOR
TATA AIG GENERAL INSURANCE
COMPANY LIMITED, NO.69,
II FLOOR, JP & DEVI,
JAMBUKESHAH ARCADE,

Digitally signed by
SUMATHY KANNAN
Location: High
Court of
KARNATAKA



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NEW ICICI FIRST SOURCE,
MILLERS ROAD,
BENGALURU – 560 051

...RESPONDENTS

(BY SRI. S.V.HEGDE MULKHAND, ADVOCATE FOR R2;
NOTICE TO R1 DISPENSED WITH VIDE ORDER DATED
22.06.2023)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT PRAYING
THAT THE JUDGMENT AND AWARD DATED 26.02.2019 PASSED
IN MVC NO.4286/2017 ON THE FILE OF THE VII ADDITIONAL
JUDGE & XXXII ACMM, COURT OF SMALL CAUSES, BENGALURU
(SCCH-3), MAY KINDLY BE MODIFIED AND ALLOW THIS APPEAL
BY ENHANCING THE COMPENSATION OF Rs.16,74,800/- WITH
8% INTEREST PER ANNUM MAY KINDLY BE GRANTED IN THE
INTEREST OF JUSTICE AND EQUITY.

IN MFA NO.5844/2019:

BETWEEN:

BABY SAYEEQA
D/O NAYAZ AHMED QURESHI,
AGED ABOUT 12 YEARS,
OCC: STUDENT,
SINCE MINOR REPT BY HER MOTHER &
NATURAL GUARDIAN,
MRS. FAIZUNNISA,
W/O NAYAZ AHMED QURESHI,
AGED ABOUT 37 YEARS,
OCC: TAILOR, R/AT: NO.871,
1ST FLOOR, 3RD CROSS,
TIPPU MASJID, R.K.HEGDE NAGAR,
BENGALURU – 560 077

...APPELLANT



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AND:

1. MR. NAYAZ AHMED QURESHI
S/O ABDUL HAFEEZ QURESHI,
R/AT NO.871, 1ST FLOOR, 3RD CROSS,
TIPPU MASJID, R.K.HEGDE NAGAR,
BENGALURU – 560 077
2. THE MANAGING DIRECTOR
TATA AIG GENERAL INSURANCE
COMPANY LIMITED, NO.69,
II FLOOR, JP & DEVI,
JAMBUKESHAR ARCADE,
NEW ICICI FIRST SOURCE,
MILLERS ROAD,
BENGALURU – 560 051

...RESPONDENTS

(BY SRI. S.V.HEGDE MULKHAND, ADVOCATE FOR R2;
NOTICE TO R1 DISPENSED WITH VIDE ORDER DATED
22.06.2023)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT
PRAYING THAT THE JUDGMENT AND AWARD DATED
26.02.2019 PASSED IN MVC NO.4287/2017 ON THE FILE OF
THE VII ADDITIONAL JUDGE & XXXII ACMM, COURT OF
SMALL CAUSES, BENGALURU (SCCH-3), MAY KINDLY BE
MODIFIED AND ALLOW THIS APPEAL BY ENHANCING THE
COMPENSATION OF Rs.4,20,000/- WITH 12% INTEREST PER
ANNUM MAY KINDLY BE GRANTED IN THE INTEREST OF
JUSTICE AND EQUITY.

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



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CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
AND
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present appeals seek to challenge the common Judgment and Award dated 26.02.2019, passed in M.V.C.Nos.4286/2017 and 4287/2017 by the VII Additional Judge And XXXII ACMM, Court of Small Causes at Bangalore (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded Rs.8,25,200/- in M.V.C.No.4286/2017 and awarded Rs.80,000/- in M.V.C.No.4287/2017, along with interest in both petitions, at the rate of 8% per annum from the date of petition till the date of deposit.

2. The challenge in these appeals has been made by the appellants/claimants in both the petitions. For the sake of convenience, appellant in MFA No.5845/2019 (MVC No.4286/2017) is referred to as petitioner No.1 and appellant in MFA No.5844/2019 (MVC No.4287/2017) as petitioner No.2.



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3. Since the Impugned Award passed is a common Award and arising out of the same accident, both these appeals have been heard and decided at the admission stage with the consent of the parties.

4. The brief relevant facts are that on 22.05.2017, the appellants/petitioners were proceeding in a Car bearing registration No.KA-51-MD-0028 near Kada Office, Malavagoppa, Shivamogga. It is contended that the driver of the Car was driving in a rash and negligent manner and hit the road divider, which led to the car turning turtle and both appellants/petitioners sustaining injuries. After the accident, the appellants/petitioners were shifted to N.H. Sayhadri Narayana Multi-Speciality Hospital, Shivamogga and later admitted to Bowring Hospital, Bengaluru to undertake treatment.

5. Two claim petitions were filed by the petitioner Nos.1 and 2, respectively, under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'MV Act').



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6. The petitioner No.1 stated that she was working as a Tailor and earning a sum of Rs.20,000/- per month and because of the disabilities caused by the accident, she has lost her earnings. The claim petition on behalf of petitioner No. 2 was filed through her mother, petitioner No.1, wherein it was stated that the petitioner No.2 was a minor aged 10 years and a student.

7. The petition was contested by the respondent No.2 /Insurance Company. Although the respondent No.1/owner of the offending vehicle was served, there was no appearance on his behalf and he was proceeded with *ex-parte* before the learned Tribunal.

8. Based on the pleadings of the parties, the Tribunal framed separate issues in both claim petitions. These are reproduced below:

"ISSUES IN MVC NO.4286/2017:

1. Whether petitioner proves that she has sustained grievous injuries in the accident occurred on 22-5-2017 at about 6.45 a.m., near Kada Office, Malavagoppa, Shivamogga, due the rash and negligent driving of the driver of Car bearing reg. No.KA-51-MD-0028 as alleged in the petition?



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2. Whether petitioner is entitled for compensation? If so, from whom and at what quantum?

3. What Order or Award?

ISSUES IN MVC 4287/2017 :

1. Whether petitioner proves that she has sustained grievous injuries in the accident occurred on 22.05.2017 at about 6.45 a.m., near Kada Office, Malavagoppa, Shivamogga, due to the rash and negligent driving of the driver of Car bearing reg. No.KA-51-MD-0028 as alleged in the petition?

2. Whether petitioner is entitled for compensation? If so, from whom and at what quantum?

3. What Order or Award?"

9. The petitioner No.1 examined herself as PW-1 on her own behalf and as PW-2 on behalf of her daughter. Two other witnesses were examined as PW-3, who was the Doctor and PW-4 who was a Junior Medical Records Technician. Several documents were marked by the appellants/petitioners as exhibits which included FIR (Exhibit-P2), IMV Report (Exhibit-P6), Wound Certificate (Exhibit-P7), Final Report of Discharge Sheet (Exhibit-P8), Discharge Summaries (Exhibits-P9 to P11), Photographs, Medical Bills, Prescriptions (Exhibits-P12 to P14), Wound Certificate of petitioner No.2 (Exhibit-P17) and medical



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documents relating to petitioner No.2 (Exhibits-P18 and P19). Various documents including X-rays, CT scans, etc., were also produced on behalf of both petitioners.

9.1 On behalf of the respondents, no evidence was led nor were any documents produced.

10. Based on the evidence produced, the learned Tribunal found that petitioner No.1 had sustained grievous injuries including 'Type III B Open fracture of the left femur' and other injuries all over her body. The learned Tribunal further after examining the Wound Certificate (Exhibit-P7) and the evidence, awarded the petitioner No.1 Rs.60,000/- for pain and suffering. While calculating the loss of future earnings due to disability, the learned Tribunal after examining the evidence of PW3, Dr. S.A. Somashekar, an Orthopedic Surgeon at Bowring Hospital and the Wound Certificates, found that although the Doctor had stated that the disability of left limb would be at 84% and the whole-body at 42%, however, since he was not the Doctor who treated the petitioner No.1 and also that he has admitted that her



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fractures were united, no disability arises. The learned Tribunal thus held that the whole-body disability at 30% would meet the ends of justice. Thus, the loss of future earnings was calculated as follows:

$$\text{Rs.}8,000 \times 12 \times 16 \times 30 / 100 = \text{Rs.}4,60,800/-$$

11. In addition, amounts were awarded for medical expenses and on other heads. Thus, the compensation awarded by the learned Tribunal to petitioner No.1 under various heads is as below:

Sl. No.	Heads of Compensation	Amount (Rs.)
1.	Pain and Agony	60,000/-
2.	Loss of Income during treatment period	32,000/-
3.	Loss of earning	4,60,800/-
4.	Medical expenses	2,37,400/-
5.	Loss of amenities, conveyance, food and nourishment, attendant charges etc.	20,000/-
6.	Future Medical Expenses	15,000/-
	TOTAL	8,25,200/-



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11.1 Thus, a total amount of Rs.8,25,200/- was awarded *qua* petitioner No.1, along with interest at 8% per annum from the date of petition, till the date of realization.

12. So far as concerns petitioner No.2, the learned Tribunal found that although medical bills for a sum of Rs.41,328/- were produced, no Doctor was examined, nor was any opinion given by a Doctor on the disability of petitioner No.2. Thus, taking into account the evidence of PW2, the learned Tribunal awarded global compensation of Rs.80,000/- *qua* petitioner No.2, along with interest at 8% per annum from the date of petition, till the date of realization.

13. The learned counsel for the appellants/petitioners submits that the injuries that were sustained by the petitioner No.1 were of grievous in nature. She was earlier a Tailor and earning amounts for the family along with working as a Homemaker. He further submits that after the accident, she is unable to either work as a Tailor or do any household work. Thus, he submits that the functional



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disability should have been awarded at 100%. However, the Doctor has only taken 30% disability to the whole-body.

14. So far as the contentions of the learned counsel for the appellants/petitioners *qua* petitioner No.2 are concerned, relying on paragraph No.29 of the Impugned Award he submits that since the petitioner No.2 underwent a surgery, the awarded amounts should have been enhanced.

15. The learned counsel on behalf the respondent No.2/Insurance Company on the other hand contends that the Doctor on the basis of whose evidence the appellants/claimants claim reliance upon, is not the treated Doctor. Thus, he is likely to have exaggerated his assessment. He submits that the learned Tribunal after examining the evidence deemed it fit to take the disability of petitioner No.1 at 30% and award global compensation *qua* petitioner No.2. The learned counsel further submits that the amount awarded is in accordance with law and do not require any interference.



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16. The common point that arises for determination in both these appeals is, whether the award of the learned Tribunal was in accordance with settled legal principles or requires any interference?

17. The only challenge that has been raised in these petitions is on the percentage of disability awarded. While the learned Tribunal has awarded at 30%, the learned counsel for the appellants/petitioners has stated that the disability should have been awarded at 100%, since the Petitioner No.1 is no longer able to perform her avocation as a Tailor.

18. The Court has examined the evidence of PW1, as well as PW4. PW1 has in her evidence stated that she was earning Rs.20,000/- per month by working as a Tailor and she has further submitted that she is unable to do any other manual work in view of her disability caused by injuries. In addition, she has stated that her husband is a heart patient and unable to do any work. Paragraphs 11 and 12 of the Affidavit annexed to the claim petition is set out below:



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"11) I humbly further submit that at the time of the accident, I was aged about 35 years and I was hale and healthy. **I was earning Rs.20,000/- per month by working as a Tailor. But now I am not able to do my earlier work or any other manual work due to the disability caused by the accidental injuries. Now I am facing lot of financial problems.** Now it is very difficult for me to maintain my husband and 2 female children without any source of income. Now, we all are depending upon others for our livelihood. Hence, my life has become dark and miserable.

12) I further **submit that my husband is an heart patient and do not able to do any work.** Hence, there is no source of income."

[Emphasis Supplied]

19. On examination of the evidence of petitioner No.1, Dr.S.A.Somashekhar, Orthopedic Surgeon (PW-3), states that he has gone through a Wound Certificate and three discharge summaries and two case sheets before assessing her disabilities. He further states that she complained of pain and inability to use left upper limb and for activities of daily living and history of her left upper limb being functionless and dangling. On an examination, he found that gross wasting of left arm swelling odema of left forearm and hands and fingers is noted. The relevant extract is below:

"I have gone through her wound certificate and 3 Discharge Summaries and 2 Case Sheets before assessing the disabilities.



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Now on presentation she complained of:

Pain and inability to use (left) upper limb for activities of daily living. History of her (left) upper limb being function less and dangling.

On Examination:

Gross wasting of (left) arm, swelling and Oedema of (left) forearm and hand/fingers is noted.

*Flaps, SSG scars and contractures are seen over (left) arm and Elbow. **(Left) upper limb is dangling and functionless.** Hypoesthesia is present over dorsal aspect and Paranesthesia is present over the volar aspect of forearm and hand.*

Her recent x-ray No. 17906/26-06-2018 shows:

3) United fracture distal humerus with implants in situ.

4) Fracture olecranon with OA changes of Elbow joint."

[Emphasis Supplied]

20. Based on this examination and an examination of her upper body including the left hand, the Doctor found that the total disability of the left upper limb was at 84% and that of her whole-body at 42%. Since she is a Tailor, she would not be able to carry out any manual work and would also need surgery for removal of the implants. The relevant extract is below:

"I put the total disability of (left) upper limb at 84% and that of her whole body at 42%.

*Patient is said to be a Tailor and with the said disabilities **she cannot carry out her work or any manual work.***



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She needs surgery for removal of implant which would cost around Rs.30,000/- in private set up."

[Emphasis Supplied]

21. This Court has also examined the cross-examination of PW-3, Dr.S.A.Somashekar, as conducted by respondent No.2/Insurance Company. The Doctor has admitted to not being the Doctor, who treated the petitioner No.1 at the time of the accident, but has stated in the cross-examination that while assessing he has gone through three discharge summaries and two case sheets of petitioner No.1, in addition to conducting a detailed examination of petitioner No.1. He has also controverted the suggestions of the respondent No.2/Insurance Company that although the fractures are united, it is not correct to state that no disability would arise. The relevant extract of the cross-examination is below:

"I have not treated petitioner, **but petitioner has taken treatment in our hospital. While assessing disability I have gone through 3 Discharge summaries and 2 case sheets. It is true that fractures are united. It is false to suggest that since fractures are united therefore no disability arise."**

[Emphasis Supplied]



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22. The Supreme Court in ***Raj Kumar Vs. Ajay Kumar and Another***¹ has in detail discussed how the Court must calculate 'loss of future earning' due to a permanent disability, as a result of injuries in the motor vehicle accident. It has held that the percentage of economic loss is distinguishable from the percentage of permanent disablement. What is required to be assessed by the Tribunal is the 'loss of earning capacity' of the injured in terms of his capacity to earn. The Tribunal has to estimate how the disablement will affect the earning capacity of the person. This would depend on multiple factors which include his avocation, education, age and other factors. The principles for assessment of disability have been summarized in the following manner:

"10. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, the percentage of loss of earning capacity, arising from a permanent

¹ (2011) 1 SCC 343



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disability will be different from the percentage of permanent disability. Some Tribunals wrongly assume that in all cases, a particular extent (percentage) of permanent disability would result in a corresponding loss of earning capacity, and consequently, if the evidence produced show 45% as the permanent disability, will hold that there is 45% loss of future earning capacity. **In most of the cases, equating the extent (percentage) of loss of earning capacity to the extent (percentage) of permanent disability will result in award of either too low or too high a compensation.**

11. **What requires to be assessed by the Tribunal is the effect of the permanent disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings** (by applying the standard multiplier method used to determine loss of dependency). **We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that the percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation.** (See for example, the decisions of this Court in Arvind Kumar Mishra v. New India Assurance Co. Ltd. [(2010) 10 SCC 254 : (2010) 3 SCC (Cri) 1258 : (2010) 10 Scale 298] and Yadava Kumar v. National Insurance Co. Ltd. [(2010) 10 SCC 341 : (2010) 3 SCC (Cri) 1285 : (2010) 8 Scale 567]).

12. **Therefore, the Tribunal has to first decide whether there is any permanent disability and, if so, the extent of such permanent disability.** This means that the Tribunal should consider and decide with reference to the evidence:

- (i) whether the disablement is permanent or temporary;
- (ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement;
- (iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such



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disablement of the limb on the functioning of the entire body, that is, the permanent disability suffered by the person.

If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, **it has to determine whether such permanent disability has affected or will affect his earning capacity.**

13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.

XXX

XXX

XXX

15. It may be noted that when compensation is awarded by treating the loss of future earning capacity as 100% (or even anything more than 50%), the need to award compensation separately under the head of loss of amenities or loss of expectation of life may disappear and as a result, only a token or nominal amount may have to be awarded under the head of loss of amenities or loss of expectation of life, as otherwise there may be a



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duplication in the award of compensation. Be that as it may.

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XXX

XXX

19. We may now summarise the principles discussed above:

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).

(iii) The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors."

[Emphasis Supplied]

23. This Court is unable to agree with the contention of the respondent No.2 that since the Doctor was not the treated Doctor, his evidence would be exaggerated. The Doctor



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(PW-3) is stated to be a registered Orthopedic Surgeon working at Bowring and Lady Curzon Hospital in Bangalore. He also has confirmed that the petitioner No.1 was treated in the Hospital that he was working in and that he has examined not only the petitioner No.1, but he has also gone through her previous medical records including the discharge summary and two case sheets. It is on the basis of this evidence that he has conducted his examination. The Doctor after examining the petitioner No.1 found that she would not be able to return to her avocation.

24. This Court has also examined the Wound Certificate (Exhibit-P7), as well as the three Discharge summaries (Exhibits-P9 to P11) and medical records relating to petitioner No.1. The wound certificate reflects grievous injuries including of the left humerus distal 1/3rd with left radial nerve transection. The discharge summaries reflect that petitioner No.1 was hospitalized on three occasions from 22.05.2017 to 02.06.2017; from 06.06.2017 to 09.08.2017; and again from 14.09.2017 to 18.09.2017.



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However, as the disability is confined to the left upper limb, her functional disability cannot be assessed at 100%. Considering the period of hospitalisation and petitioner No.1's inability to pursue her avocation, this Court deems it appropriate to assess her functional disability at 60%.

25. It is not disputed that the notional income as per the Karnataka State Legal Services Authority for an accident of the year 2017 is Rs.11,000/-. Thus, the compensation towards 'loss of income due to disability' in respect of petitioner No.1, taking 60% as the disability and adding amounts for future prospects, is calculated as follows:

Loss of income due to disability	Amount
$(11,000 + 40\%) \times 12 \times 16 \times 60\%$	Rs.17,74,080/-

25.1 This Court also deems it apposite to enhance the compensation awarded towards 'pain and suffering' and 'loss of amenities', given the period of hospitalization of the petitioner No.1. Thus, the compensation in respect of petitioner No.1 would require to be re-calculated as follows:



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Sl. No.	Heads of Compensation	Amount (Rs.)
1.	Injury, Pain and Suffering	1,00,000/-
2.	Loss of Income during laid up period	44,000/-
3.	Loss of income on account of disability (11,000 + 40%) x 12 x 16 x 60%	17,74,080/-
4.	Medical Expenses	2,37,400/-
5.	Future Medical expenses	30,000/-
6.	Loss of amenities, Attendant, Conveyance and other miscellaneous expenses	45,000/-
7.	TOTAL	22,30,480/-
8.	LESS AWARDED BY THE TRIBUNAL	8,25,200/-
9.	ENHANCED COMPENSATION	14,05,280/-

26. In so far as the petitioner No.2 is concerned, it is not disputed that there was no Doctor who examined her or gave an assessment of her disability. The discharge summary of the petitioner No.2 (Exhibit-P18) reflects that the injuries were simple in nature. It also reflects that the petitioner No.2 was although hospitalized for 3 days, was not operated. The Wound Certificate (Exhibit-P17) reflects that petitioner No.2 has suffered simple injuries and that the discharge summary (Exhibit-P18) also shows that she was



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in hospital for three days but was treated for wound debridement. The relevant extract is below:

"Procedure:

Wound Debridement and closure dose on 22.05.2017.

CLINICAL HISTORY:

HISTORY OF PRESENT ILLNESS

Alleged h/o RTA at around 6.30 AM on 22.05.2017 and sustained injury to left upper limb.

C/o. wound over left arm and left forearm

No H/o LOC/ENT bleed and vomiting."

27. Given these contentions and the medical expenses which were at Rs.41,328/-, the learned Tribunal has awarded Rs.80,000/- as global compensation. This Court deems it apposite to re-calculate the compensation to the petitioner No.2 as follows:

Sl. No.	Heads of Compensation	Amount (Rs.)
1.	Injury, Pain and Suffering	30,000/-
2.	Loss of amenities	30,000/-
3.	Medical Expenses	41,328/-
4.	Future Medical Expenses	10,000/-
5.	TOTAL	1,11,328/-
6.	LESS AWARDED BY THE TRIBUNAL	80,000/-
7.	ENHANCED COMPENSATION	31,328/-



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28. Hence, the appellant/petitioner No.2 is entitled to total compensation of **Rs.1,11,328/-** along with interest at 8% per annum from the date of petition till the date of realization.

29. Accordingly, the Court proceeds to pass the following:

ORDER

(i) The appeals are ***allowed in part;***

(ii) The common Impugned Judgment and Award dated 26.02.2019, passed in M.V.C.Nos.4286/2017 and 4287/2017 by the VII Additional Judge and XXXII ACMM, Court of Small Causes at Bangalore is modified, to the extent that the appellant/petitioner in MFA No.5845/2019 (MVC No.4286/2017) is entitled to total compensation of **Rs.22,30,480/-** and the appellant/petitioner in MFA No.5844/2019 (MVC No.4287/2017) is entitled to total compensation of **Rs.1,11,328/-**. The interest in both awards shall be calculated at the rate of 8% per annum.



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(iii) The remaining portion of the Impugned Award of the learned Tribunal remains undisturbed.

(iv) The Respondent No.2/Insurance Company shall deposit the enhanced compensation along with interest applicable thereon, within a period of eight weeks from the date of receipt of a copy of this judgment.

(v) On such deposit of the compensation, the same shall be released in favour of the appellants / petitioners, on filing of an appropriate application by the appellants/ claimants for withdrawal of the enhanced amount.

(vi) The Registry is directed to draw the modified Award accordingly.

(vii) The Registry is directed to transmit a copy of this judgment to the concerned Tribunal.

(viii) No order as to costs.



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(ix) All pending application(s) stand closed.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(TARA VITASTA GANJU)
JUDGE

JJ /Yn.
List No.: 1 Sl No.: 6