



CNR: KAHC010208952017

NC: 2026:KHC:55431
MFA No. 327 of 2017
C/W MFA No. 326 of 2017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO. 327 OF 2017 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 326 OF 2017 (MV-I)

IN MFA No. 327/2017

BETWEEN:

SMT. KALAMMA
W/O NAGARAJACHAR,
AGED ABOUT 51 YEARS,
R/O MALLIAHANAPURA VILLAGE,
GUNDLUPET TALUK,
CHAMARAJANAGAR DISTRICT.

...APPELLANT

Digitally signed [BY SRI SUMANTH L BHARADWAJ, ADVOCATE (AB)]
by ANUSHA V

Location: High
Court of
Karnataka

AND:

1. BASAVARAJU N.,
MAJOR,
R/O NO.17,
KALLABALU VILLAGE,
JINAGI HOBLI,
BANGALORE.
2. THE MANAGER (LEGAL)
UNIVERSAL SAMPO GENERAL
INSURANCE CO. LTD.,
NO. 201, 202,
CRYSTAL PLAZA,
OPP. INFANTRY HALL LINK ROAD,



CNR: KAHC010208952017

NC: 2026:KHC:55431
MFA No. 327 of 2017
C/W MFA No. 326 of 2017

ANDHERI (WEST),
MUMBAI - 400 058.

...RESPONDENTS

(BY SRI S.V.HEGDE MULKHAND, ADVOCATE FOR R2;
V/C/O DATED 02.03.2021 NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 07.09.2015 PASSED IN MVC
NO.216/2011 ON THE FILE OF THE PRINCIPAL DISTRICT JUDGE,
MACT, CHAMARAJANAGAR, PARTLY ALLOWING THE CLAIM PETITION
FOR COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

IN MFA NO. 326/2017

BETWEEN:

SURESHA
S/O NAGARAJACHAR
AGED ABOUT 28 YEARS
R/O MALLIAHANAPURA VILLAGE
GUNDLUPET TALUK
CHAMARAJANAGAR DISTRICT.

...APPELLANT

[BY SRI SUMANTH L BHARADWAJ, ADVOCATE (AB)]

AND:

1. BASAVARAJU N
MAJOR
R/O NO.17
KALLABALU VILLAGE
JINAGI HOBLI
BANGALORE - 560 020.
2. THE MANAGER (LEGAL)
UNIVERSAL SAMPO GEN.
INS. CO.LTD,
NO.201, 202,
CRYSTAL PLAZA



CNR: KAHC010208952017

NC: 2026:KHC:55431
MFA No. 327 of 2017
C/W MFA No. 326 of 2017

OPP.INFANTRY HALL LINK ROAD
ANDHERI (WEST)
MUMBAI - 400 058.

...RESPONDENTS

(BY SRI S.V.HEGDE MULKHAND, ADVOCATE FOR R2;
V/C/O DATED 18.04.2023 NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 07.09.2015 PASSED IN MVC NO.219/2011 ON THE FILE OF THE PRINCIPAL DISTRICT JUDGE, MACT, CHAMARAJANAGAR, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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 common judgment and award dated 07.09.2015 passed by Prl.District Judge & Member - MACT, Chamarajanagar, in MVCs no.216 and 219 of 2011, these appeals are filed.

2. Brief facts leading to these appeals as per claimants are that at 3:45 p.m. on 02.08.2011, Kamma and Suresh were proceeding on Motorcycle towards Mallaiahnapura, when driver of Lorry no.KA-51-A-5464 drove it in rash and negligent



CNR: KAHC010208952017

NC: 2026:KHC:55431
MFA No. 327 of 2017
C/W MFA No. 326 of 2017

manner and it dashed against motorcycle. In accident, both rider and pillion rider sustained grievous injuries and despite treatment at Government Hospital, Gundlupet and later at JSS Hospital, Mysuru, did not recover fully and sustained permanent disability and loss of earning capacity. Therefore, they filed claim petitions against owner and insurer of Lorry.

3. Despite service of notice, owner did not appear and was placed *ex-parte*. Only insurer appeared and opposed claim petition on all grounds. Based on pleadings, Tribunal framed following issues:

In MVC 216/2011

1. *Whether the petitioner proves that she sustained injuries in the motor vehicle accident that took place on 2.8.2011 at about 3.45 p.m. while she was traveling as Pillion rider on TVS Apache motor bike, near Shindanapur gate, on Chamarajanagar Gundlupet main road, due to rash and negligent driving of the lorry bearing Regn. No. Ka-51-A-5464, by its driver and the said lorry dashing against the said motor bike, coming from the opposite direction?*
2. *Whether petitioner is entitled for any compensation? If so, what amount and from whom?*
3. *What award or order?*



CNR: KAHC010208952017

NC: 2026:KHC:55431
MFA No. 327 of 2017
C/W MFA No. 326 of 2017

In MVC 219/2011

1. *Whether the petitioner proves that he sustained injuries in the motor vehicle accident that took place on 2.8.2011 at about 3.45 p.m. while she was traveling as Pillion rider on TVS Apache motor bike, near Shindanapur gate, on Chamarajanagar Gundlupet main road, due to rash and negligent driving of the lorry bearing Regn. No. Ka-51-A-5464, by its driver and the said lorry dashing against the said motor bike, coming from the opposite direction?*
2. *Whether petitioner is entitled for any compensation? If so, what amount and from whom?*
3. *What award or order?*

4. Claimants deposed as PWs.1 and 2 and got marked Exhibits P1 to P7. Respondents did not lead evidence. Tribunal held accident had occurred due to rash and negligent driving of insured vehicle by its driver and vehicle was covered with insurance policy as on date of accident and claimants were entitled for compensation. It assessed compensation of Rs.10,000/- in claim petition filed by Kamma and Rs.1,12,200/- in claim petition filed by Suresh. Dissatisfied with quantum, appeals are filed.

5. In MFA no.327/2017 arising out of MVC no.216/2011, it is contended that Tribunal erred in not



NC: 2026:KHC:55431
MFA No. 327 of 2017
C/W MFA No. 326 of 2017

CNR: KAHC010208952017

awarding compensation under each of heads separately in personal injury claims and erred in awarding only Rs.10,000/-. In MFA no.326/2017 arising out of MVC no.219/2011 it is contended that Tribunal erred in not awarding compensation towards loss of amenities and loss of future income and erred in awarding only Rs.1,12,200/- under other heads.

6. Sri SV Hegde Mulkhand, learned counsel for respondent-insurer would oppose appeals. It was submitted that considering nature of injuries and failure on part of claimants to lead medical evidence, award passed by Tribunal was just and proper and did not call for enhancement. On said grounds, sought for dismissal.

7. Heard learned counsel, perused impugned judgment, award and record.

8. From above and since both appeals are by claimants for enhancement, common point that arises for consideration is:

"Whether claimant is entitled for enhancement of compensation?"



CNR: KAHC010208952017

NC: 2026:KHC:55431
MFA No. 327 of 2017
C/W MFA No. 326 of 2017

9. In MFA no.327/2017, claimant - Kalamma, aged 45 years, working as an agriculturist/milk vendor. Though claimant stated that in accident, she sustained fracture of right knee and right hand, she did not produce any medical records including wound certificate, discharge summary etc to establish injuries. It is also seen that even a Doctor is not examined. Under above circumstances, award of Rs.10,000/- as compensation by Tribunal cannot be held to be insufficient or inadequate. Hence, point for consideration is answered in *negative*.

10. In MFA no.326/2017 arising out of MVC no.219/2011, claimant - Suresh is stated to be 22 years of age, working as Carpenter and earning Rs.10,000/- per month sustained femoral shaft fracture combined with fractures of first and third metacarpals. However, he did not produce any material to substantiate his monthly income. Therefore, Tribunal assessed it notionally at Rs.6,000/-. Notional income for year 2011 is Rs.6,500/- per month. Therefore, same has to be considered. But Ex.P5 - wound certificate, Exs.P6 and P7 - treatment records would indicate claimant sustained fractural injuries and took treatment. Under above circumstances, award



CNR: KAHC010208952017

NC: 2026:KHC:55431
MFA No. 327 of 2017
C/W MFA No. 326 of 2017

of **Rs.50,000/-** towards pain and suffering cannot be stated to be grossly inadequate as to warrant interference and same is sustained. Tribunal has awarded **Rs.24,200/-** towards medical expenses against bills produced in full reimbursement. Therefore, no enhancement. Tribunal has awarded Rs.5,000/- towards food and nourishment and Rs.5,000/- towards conveyance expenses. Tribunal has held that claimant had taken in-patient treatment for 26 days. Considering same, it would appear inadequate and enhanced to **Rs.20,000/-** towards food, nourishment and incidental expenses. Normally fractures take about three months to heal. Since monthly income is re-assessed at Rs.6,500/- per month, claimant would be entitled for **Rs.19,500/-** towards loss of income during laid-up period. Claimant has been awarded **Rs.10,000/-** towards future medical expenses which appears just and proper. However, Tribunal has not awarded any compensation towards loss of amenities. Even though Doctor is not examined, it is found appropriate to award **Rs.15,000/-** towards loss of amenities. Thus, total compensation would be **Rs.1,38,700/-** (Rs.50,000 + Rs.24,200 + Rs.20,000 + Rs.19,500 + Rs.10,000



CNR: KAHC010208952017

NC: 2026:KHC:55431
MFA No. 327 of 2017
C/W MFA No. 326 of 2017

+ Rs.15,000). Hence, point for consideration is answered *partly* in affirmative as above.

11. Consequently, following:

ORDER

- (i) MFA no.327/2017 is ***dismissed;***
- (ii) MFA no.326/2017 is ***allowed in part;***
- (iii) Judgment and award dated 07.09.2015 passed by Prl.District Judge & Member - MACT, Chamarajanagar, in MVC no.219/2011 is ***modified;***
- (iv) Claimant in MVC no.219/2011 is held entitled for re-assessed compensation of **Rs.1,38,700/-** as against Rs.1,12,200/- with interest at 6% per annum from date of claim petition till deposit, excluding period of 396 days being delay in filing appeal;
- (v) Insurer to deposit compensation before Tribunal within a period of six weeks; and
- (vi) On deposit, entire compensation is ordered to be released in favour of claimants.

**Sd/-
(RAVI V HOSMANI)
JUDGE**