



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 2798 OF 2023 (MV-I)

BETWEEN:

MR. NAGARAJU
S/O HONNAIAH,
AGED ABOUT 23 YEARS,
RESIDING AT MALLESWARA,
KADUR TALUK,
CHIKKAMAGALURU DISTRICT - 577 548.

...APPELLANT

(BY SRI. SHANKAR PRASAD M.B., ADVOCATE)

AND:

1. THE MANAGER
NEW INDIA ASSURANCE COMP. LTD.,
NO.9/2, 2ND FLOOR,
MAHALAKSHMI CHAMBERS,
M.G. ROAD,
BANGALORE - 01.
2. SHRI. SYED ALTHAAF
S/O SYED JAPHER,
AGED MAJOR
3RD CROSS, SIDDESHWARANAGAR,
SHIMOGA - 577 203.
3. THE MANAGER
THE ORIENTAL INSURANCE COMPANY LTD.,
NO.44/45, 3RD FLOOR,
LEO SHOPPING COMPLEX,
M.G.ROAD,
BANGALORE - 560 001.

Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI

Location: HIGH
COURT OF
KARNATAKA



4. SHRI. B. THIPPESWAMY
S/O BHEEMAPPA,
AGED AMJOR,
OPPOSITE TO ADARSHA KALYANAMANTAPA,
M.H. ROAD,
CHITRADURGA - 577 501.

...RESPONDENTS

(BY SRI. B.R. VENKATESH KAMATH, ADVOCATE FOR R1;
SMT. SUJATHA PANDIT S., ADVOCATE FOR R3
VIDE ORDER DATED 17.09.2024, NOTICE TO R2 AND R4
ARE DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 23.01.2023 PASSED IN MVC
NO.846/2021 ON THE FILE OF THE VIII ADDITIONAL SCJ AND
ACMM, MEMBER, MACT, BENGALURU (SCCH-5) 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 SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed by the claimant seeking
enhancement of the compensation awarded under the
Judgment and Award dated 23.01.2023 passed in MVC
No.846/2021 by the VIII Additional Small Causes Judge
and Member, MACT, Bengaluru (SCCH-5).



2. The appellant/claimant filed a claim petition seeking compensation for the injuries sustained in a road traffic accident that occurred on 23.01.2021, contending that the accident was occurred due to the rash and negligent driving of the driver of the tanker bearing Registration No. KA-14-A-1631.

3. The Tribunal recorded the evidence adduced by the parties and, upon appreciation of the oral and documentary evidence on record, assessed the compensation and awarded the same under various heads as follows:

Sl. No.	Head of Compensation	Amount in Rs.
1.	Loss of future income	3,24,000-00
2.	Pain and sufferings	15,000-00
3.	Conveyance, nourishment and attendant charges	15,000-00
4.	Medical expenses	1,30,833-00
5.	Loss of amenities in life	15,000-00
6.	Loss of income during laid up period	15,000-00
7.	Future medical expenses	20,000-00
	Total	5,34,833-00



4. The Tribunal also awarded interest at the rate of 6% per annum on the compensation amount from the date of the petition till its realization. The Tribunal further held that Respondent No.1 - Insurer shall be liable to pay 80% of the compensation amount, while Respondent No.3 - Insurer shall be liable to pay the remaining 20%, together with accrued interest thereon.

5. Aggrieved by the quantum of compensation awarded, the claimant has preferred the present appeal seeking enhancement.

6. Heard the learned counsel appearing for the appellant, the learned counsel appearing for Respondent No.1, and the learned counsel appearing for Respondent No.3.

7. Learned counsel for the appellant contended that P.W.2, the doctor who assessed the disability, has opined that the claimant suffered 50% permanent disability to the particular limb and 25% permanent



disability to the whole body. It is contended that, despite such evidence, the Tribunal has erroneously assessed the whole-body disability only at 10%, which is on the lower side. It is further submitted that the claimant sustained three fractures and was hospitalized for a period of six days. The claimant was working as a DTP Operator and, therefore, the injuries sustained by him have adversely affected his earning capacity and day-to-day activities. It is also contended that the compensation awarded under the heads of pain and suffering, loss of amenities, and loss of income during the laid-up period is inadequate and hence, he prays to allow the appeal and enhance the compensation awarded by the Tribunal.

8. Both learned counsel for respondent No.1 and learned counsel for respondent No.3 would contend that, the compensation awarded by the Tribunal under all heads is just and proper and there are no grounds for enhancement and the disability taken by the Tribunal at



10% is proper. With these, the pray for dismissal of the appeal.

9. Heard both the learned counsel for appellant and learned counsel for respondent No.1 and respondent No.3 and perused the judgment and award as well as the trial Court records.

10. Ex.P13 - Wound Certificate discloses that the claimant sustained the following injuries: (i) comminuted fracture of the lateral epicondyle, (ii) fracture of the olecranon of the right side, and (iii) fracture of the shaft of the right humerus. P.W.2, the doctor who assessed the disability, has deposed that the claimant suffered 50% permanent disability to the right upper limb and 25% to the whole body. Despite the said evidence, the Tribunal has assessed the whole-body disability at 10%. Having regard to the nature of injuries and the evidence of P.W.2, this Court is of the opinion that the whole-body disability



ought to be assessed at 15%, which is 1/3rd of the particular limb.

11. The Tribunal has rightly taken the notional income of the claimant at Rs.15,000/- per month and applied multiplier of '18'. Accordingly, the loss of future earning is calculated as under:

$$15,000 \times 12 \times 18 \times 15\% = 4,86,000/-$$

12. Considering the nature of injuries, the claimant has sustained three fractures, hence, he is entitled to a sum of Rs.90,000/- towards pain and sufferings as against Rs.15,000/- awarded by the Tribunal and Rs.50,000/- towards loss of amenities as against Rs.15,000/- awarded by the Tribunal.

13. Considering the nature of injuries and the period required for recovery, he is entitled to compensation towards loss of income during laid-up period for three months in a sum of Rs.45,000/- (15,000 X 3) as against Rs.15,000/- awarded by the Tribunal.



14. The Tribunal has rightly awarded the medical expenses at Rs.1,30,833/-, future medical expenses at Rs.20,000/- and attendant and conveyance charges at Rs.15,000/-.

15. Considering all the above aspects, the claimant is entitled to total compensation under different heads as under:

Sl. No.	Particulars		Amount
1	Loss of future income	Rs.	4,86,000.00
2	Pain and sufferings	Rs.	90,000-00
3	Loss of income during laid up period	Rs.	45,000.00
4	Attendant and conveyance charges	Rs.	15,000.00
5	Medical expenses	Rs.	1,30,833.00
6	Loss of amenities	Rs.	50,000.00
7.	Future medical expenses	Rs.	20,000.00
Total		Rs.	8,36,833.00

16. Thus, the claimant is entitled to a total compensation of Rs.8,36,833/- as against Rs.5,34,833/- awarded by the Tribunal, together with interest at the rate



of 6% per annum from the date of the petition till realization.

17. Consequently, the claimant is entitled to an enhanced compensation of Rs.3,02,000/- (Rs.8,36,833–Rs.5,34,833) with interest at the rate of 6% per annum from the date of the petition till realisation.

18. The finding of the Tribunal regarding liability shall remain unaltered. Accordingly, Respondent Nos.1 and 3 - Insurers are liable to pay the enhanced compensation amount in the ratio of 80:20 respectively, as determined by the Tribunal. In view of the above, the following:

ORDER

- i) *Miscellaneous First Appeal is **allowed-in-part.***
- ii) *The claimant is entitled to enhanced compensation of Rs.3,02,000/- with interest at the rate of 6% per annum from the date of the petition till realisation.*
- iii) *Respondent Nos.1 and 3 - Insurer shall deposit their share of the enhanced*



compensation amount with interest before the Tribunal within a period of six weeks from this day, failing which, it is liable to pay interest at the rate of 9% per annum from this day till date of payment.

- iv) The claimant is entitled to release of entire enhanced compensation amount.*
- v) The calculation of interest at 6% will not apply to the future medical expenses awarded in a sum of Rs.20,000/-.*

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

KLV
List No.: 1 Sl No.: 55