



CNR: KAHC010211282025

NC: 2026:KHC:39852
MFA No. 2306 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 2306 OF 2025

(MV-I)

BETWEEN:

SMT. E. SHANKARAMMA
AGED ABOUT 57 YEARS
W/O. INDURI SIDDAIAH
R/A. C/O. B.G. SRINVASA
BDA INDRAPRASTHA, BS-904
NEAR R.V. ENGINEERING COLLEGE
MYSORE ROAD, BENGALURU - 560 059.
PERMANENT ADDRESS
No.3-65, SANJEEVU PALLI
YARRAGUNTA PALLI, ANANTHAPURA
ANDHRA PRADESH - 515 571.

...APPELLANT

Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI
Location: HIGH
COURT OF
KARNATAKA

(BY SRI NAGARAJA REDDY D, ADVOCATE)

AND:

1. SRI. ANEESH KUMAR. F
MAJOR
S/O. FAIGUNAN NAIR
CHAMUNDI KUNNU POST
RAJAPURAM, KASARAGOD
KERALA STATE - 671 532.
2. THE NEW INDIA ASSURANCE CO. LTD.,
REGIONAL OFFICE, No. 9/2



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MAHALAKSHMI CHAMBERS, M.G. ROAD
BENGALURU- 560 001.
REP. BY ITS MANAGER

...RESPONDENTS

(BY SRI MALLIKARJUNA REDDY, ADVOCATE FOR
SRI A M VENKATESH, ADVOCATE FOR R2
SRI GAUTHAM ADITYA B C, ADVOCATE FOR R1)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:06.11.2024 PASSED IN MVC No.2247/2023 ON THE FILE OF THE VIII ADDITIONAL JUDGE, COURT OF SMALL CAUSES, ACJM AND MACT, SCCH-5, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR ORDERS 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 compensation awarded in the Judgment and Award dated 06.11.2024 passed in MVC No.2247/2023 by VIII Additional Court of Small Causes and MACT, Bangalore (SCCH-5).

2. Even though the appeal is listed today for orders/admission, it is taken up for disposal with the



consent of learned counsel for the appellant and learned counsel for respondent No.2.

3. The appellant -claimant made a claim petition praying to award compensation for injuries sustained by her in a road traffic accident occurred on 06.02.2023, contending that the accident occurred due to the rash and negligent driving of the driver of the car bearing registration No.KL-13/AM-0415. The Tribunal after recording evidence of the parties and appreciating evidence on record has assessed the compensation and awarded compensation under various heads as under:

Sl.No.	Head of Compensation	Amount in Rs.
1	Loss of Future Income	2,79,990,-00
2	Pain and sufferings	20,000-00
3	Conveyance, nourishment and attendant charges	20,000-00
4	Medical Expenses	17,80,943-00
5	Loss of amenities in life	20,000-00
6	Loss of income during laid up period	12,200-00
	Total	21,33,133-00

4. The Tribunal held that the claimant has also contributed to the accident to the extent of 40% and



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deducted 40% in the total compensation of Rs.21,33,133/- i.e., Rs.8,53,253/- and awarded Rs.12,79,880/- with interest at rate of 6% per annum from the date of petition till realisation and directed respondent No.2 -insurer to pay the award amount with interest. The appellant has filed the present appeal seeking enhancement of the compensation.

5. Heard learned counsel for the appellant and learned counsel for respondent No.2 -insurer.

6. Learned counsel for the appellant would contend that the Tribunal has held that the claimant has contributed to the accident to the extent of 40%. The claimant has almost crossed the road and she was at a distance of 2 feet from the median and at that time the accident occurred. Therefore, the entire liability to pay the compensation has to be saddled on the insurer since the accident occurred due to the sole negligence on the part of driver of the insured car. He further submits, P.W.5 - doctor has examined the claimant and assessed her



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disability to the whole body at 51.13% and Tribunal has erred in taking the disability only at 17%. The claimant was a tailor and 07 fractures suffered by her affected her work as tailor. Out of the 07 fractures, 04 are non-united and 03 are united. The claimant has been admitted in hospital for 28 days and the Tribunal has erred in taking 24 days. The Tribunal has taken the income at Rs.15,250/-. But as per the chart, notional income for the year 2023 is Rs.16,000/- and same is to be taken. Since the disability is more, the future prospects are required to be taken at 10% as the claimant is ages 58 years. He further submits that considering the fracture sustained by the claimant, the compensation awarded for pain and suffering, loss of amenities, loss of income during laid up period, attendant and conveyance charges are on lower side. P.W.5 has stated that the claimant has to undergo five operations. But the Tribunal has not awarded anything towards future medical expenses. With these, he prays to allow the appeal and enhancement of compensation.



7. Learned counsel for respondent No.2 would contend that the claimant –P.W.1 herself admitted in cross examination that there was no pedestrian passing at the spot of the accident and it is a national highway and there is no zebra crossing. The Tribunal considering that the evidence on record has rightly held that the claimant has also contributed to the accident to the extent of 40%. The Tribunal considering the evidence of P.W.5 has rightly taken the disability at 17%. The compensation awarded under different heads are just and proper. The claimant herself admitted in the cross-examination that she is permanent resident of Andhra Pradesh and on the date of accident she came from Andhra Pradesh to Bangalore for medical treatment and on the date of evidence also she came from Andhra Pradesh. Therefore, the notional income fixed for Andhra Pradesh has to be taken into consideration. With these, he prays to dismiss the appeal.



8. Having heard learned counsels, the Court has perused impugned judgment, award and documents made available by learned counsel for the appellant.

9. The accident occurred on 06.02.2022 and as on the date of accident, the claimant was aged 58 years and her avocation is tailor. Ex.P4 is the spot mahazar and it is enclosed with the sketch of the spot of the accident. The accident occurred on the National Highway leading from Devanahalli to Bangalore. The claimant was crossing the road, she was about to reach the median at distance of 2 feet, at that time accident occurred. There is no zebra crossing at the spot of the accident. The claimant was accompanied by her son at the time of the accident. The road leading from Devanahalli to Bangalore is having heavy traffic, as the airport is situated near Devanahalli. Considering the said aspect, there is contributory negligence on the part of the claimant but not to the extent of 40% as held by the Tribunal. The extent of



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contributory negligence on the part of the claimant is 20%.

10. P.W.5 is the doctor who has examined the claimant and assessed her disability. P.W.5 -doctor has stated that the claimant has sustained 07 fractures and they are as under:

1. *"Fracture of Right proximal Humerus shows NON UNION with implants in situ.*
2. *Fracture Femur of Right proximally [Intertrochanteric) shows NON UNION with implants in situ*
3. *Fracture of Lateral Malleolus of Left Ankle NON UNION*
4. *Fracture of 5th Metacarpal Neck of left Hand MALUNION*
5. *Fractures of Superior and Inferior pubic Ran Right side, show UNION*
6. *Fractures of Anterior Column of Right Acetabulum shows UNION with implants in situ*
7. *Fracture of Distal end of Left Radius shows UNION with implants in situ."*

Out of the said 07 fractures, 04 are non-united and 03 are united. P.W.5 -doctor has assessed the disability



the claimant at 51.13% to the whole body. Considering the evidence of P.W.5, the disability to the whole body of the claimant is to be taken at 50% as against 17% as taken by the Tribunal.

11. The claimant –P.W.1 has admitted in her cross-examination that she is permanent resident of Andhra Pradesh and as on the date of accident she came to Bangalore in a taxi to get medical check-up and on the date of evidence also, she came from Andhra Pradesh. The documents namely Aadhar card and other documents of the claimant indicate that she is the resident of Andhra Pradesh. As the claimant is the resident of Andhra Pradesh, the notional income fixed for the residents of Karnataka cannot be taken into consideration. The notional income fixed for the residents of Andhra Pradesh has to be taken into consideration for calculation of loss of future income. The accident has occurred in the year 2023 and for the said year the notional income fixed in the Andhra Pradesh is Rs.9,500/-. Since the disability is more



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than 20%, future prospects are to be taken at 10% since claimant is aged 58 years. The Tribunal has rightly applied multiplier '9' as the claimant is aged 58 years. In view of the above, loss of future income is calculated as under:

$$\text{Rs.9,500/-} + 10\% (\text{Rs.950/-}) = \text{Rs.10,450/-} \times 12 \times 9 \times 50\% = \text{Rs.5,64,300/-}$$

12. Considering the injuries sustained by the claimant as noted supra, the compensation awarded towards pain and suffering in a sum of Rs.20,000/- requires to be enhanced to Rs.1,50,000/-. The loss of amenities in a sum of Rs.20,000/- requires to be enhanced to Rs.1,20,000/-. The claimant has been admitted in the hospital for 28 days. Therefore, the claimant is entitled to compensation in sum of Rs.28,000/- towards attendant, conveyance charges, food and nourishment etc., (Rs.1,000/- x 28 days). Considering the injury sustained by the claimant and considering her age, she has to take rest at least for 06 months and therefore, she is entitled to loss of income during laid up period for 06 months in a



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sum of Rs.57,000/- (Rs.9,500/- x 6). P.W.5 –doctor has stated that the claimant has to undergo five surgeries. Considering the said aspect, the claimant is entitled to future medical expenses in a sum of Rs.1,50,000/-. In view of the above, the claimant is entitled to total compensation under various heads as under:

Sl.No.	Head of Compensation	Amount in Rs.
1	Loss of Future Income	5,64,300/-
2	Pain and sufferings	1,80,000/-
3	Conveyance, nourishment and attendant charges	28,000/-
4	Medical Expenses	17,80,943/-
5	Loss of amenities in life	1,20,000/-
6	Loss of income during laid up period	57,000/-
7	Future Medical Expenses	1,50,000/-
Total		28,80,243/-

13. There is a contributory negligence on the part of the claimant to the extent of 20%, a sum of Rs.5,76,049/- which is 20% of the total compensation of Rs.28,80,243/- has to be deducted in it. Therefore, the claimant is entitled to total compensation of Rs.23,04,194/- as against Rs.12,79,880/- as awarded by the Tribunal with interest. Consequently, the claimant is



entitled to enhanced compensation of Rs.10,24,314/- with interest at the rate of 6% per annum from the date of petition till realisation. Respondent No.2 - insurer is liable to pay the said enhanced compensation with interest. The claimant is not entitled to interest on future medical expenses of Rs.1,50,000/-.

14. In view of the above, the following

ORDER

- i) The appeal is ***allowed in part.***
- ii) The appellant -claimant is entitled to enhanced compensation of Rs.10,24,314/-.
- iii) The appellant -claimant is entitled to interest at the rate of 6% per annum on Rs.8,74,314/- (except future medical expenses at Rs.1,50,000/-) from the date of petition till realisation.
- iv) Respondent No.2 -insurer shall deposit the said enhanced compensation with interest before the Tribunal within a period of 06 weeks from this day.



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- v) The claimant is entitled to release of entire enhanced compensation amount.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

DSP
List No.: 1 Sl No.: 32
Ct.sm