



CNR: KAHC010098592022

NC: 2026:KHC:42171  
MFA No. 2035 of 2022  
C/W MFA No. 356 of 2021  
MFA No. 1434 of 2021  
AND 3 OTHERS

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 6<sup>TH</sup> DAY OF AUGUST, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE RAJESH RAI K**

**MISCELLANEOUS FIRST APPEAL NO.2035 OF 2022(MV-I)**

**C/W**

**MISCELLANEOUS FIRST APPEAL NO. 356 OF 2021 (MV-I)**

**MISCELLANEOUS FIRST APPEAL NO.1434 OF 2021(MV-I)**

**MISCELLANEOUS FIRST APPEAL NO.2019 OF 2022(MV-I)**

**MISCELLANEOUS FIRST APPEAL NO.3780 OF 2022(MV-I)**

**MISCELLANEOUS FIRST APPEAL NO.3840 OF 2022(MV-I)**

**IN MFA No. 2035/2022**

**BETWEEN:**

M/S UNITED INDIA INSURANCE COMPANY LTD  
REGIONAL OFFICE,NO.18, KRISHI BHAVAN,  
5<sup>TH</sup> FLOOR, OPPOSITE HUDSON CIRCLE,  
NRUPATHUNGA ROAD, BANGALORE-560 01  
REPRESENTED BY ASSISTANT MANAGER.

...APPELLANT

(BY SMT. GEETHA R, ADVOCATE)

**AND:**

1. MR D C NAGARAJ  
S/O LATE DODDA YALLAPPA  
AGED ABOUT 58 YEARS,  
R/AT CHIKKABANAHALLI VILLAGE  
BIDARAHALLI HOBLI  
BANGALORE EAST TALUK.
2. MR.S GOPAL  
S/O SELLAPPA GOUNDER,

Digitally signed  
by PANKAJA S  
Location: HIGH  
COURT OF  
KARNATAKA



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MAJOR, SELLAPPAM PATTY VILLAGE,  
VAIKUNDAM POST, SANKARI TALUK,  
SALEM DISTRICT, TAMIL NADU

3. THE NEW INDIA ASSURANCE COMPANY LTD  
MOTOR TP HUB, MAHALAKSHMI CHAMBERS,  
NO.9, 2<sup>ND</sup> FLOOR, M.G.ROAD,  
BANGALORE-560 001.
4. MR.PRASANNA KUMAR  
S/O NAGARAJ,  
MAJOR,  
KANMANGALA POST,  
BIDARAHALLI HOBLI,  
BANGALORE EAST TALUK.

...RESPONDENTS

(BY SRI. GOPAL KRISHNA N, ADVOCATE FOR R1 & R4,  
SRI. B.R. VENKATESH KAMATH, ADVOCATE FOR R3,  
VIDE ORDER DATED 14/08/2024, NOTICE TO R2 IS  
HELD SUFFICIENT)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE  
JUDGMENT AND AWARD DT.14.11.2019 PASSED IN MVC  
NO.5614/2016 ON THE FILE OF THE III ADDITIONAL CIVIL  
JUDGE AND MEMBER, MACT, COURT OF SMALL CAUSES,  
BENGALURU, (SCCH-17), AWARDING COMPENSATION OF  
RS.3,96,400/- WITH INTEREST AT 8 PERCENT P.A. FROM THE  
DATE OF PETITION TILL THE DATE OF DEPOSIT.

**IN MFA NO. 356/2021**

**BETWEEN:**

THE NEW INDIA ASSURANCE COMPANY LIMITED  
MAHALAKSHMI CHAMBERS, NO.9, 2ND FLOOR,  
M G ROAD, BENGALURU-560001



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REPRESENTED BY THE MANAGER,  
THE NEW INDIA ASSURANCE COMPANY LIMITED,  
MOTOR THIRD PARTY CLAIMS HUB,  
BANGALORE

...APPELLANT

(BY SRI. VENKATESH KAMATH B.R, ADVOCATE)

**AND:**

1. SRI D N PRASANNA KUMAR  
S/O B S NAGARAJ,  
AGED ABOUT 31 YEARS,  
R/AT DODDABANAHALLI,  
KANNAMANGALA POST,  
BIDHARAHALLI HOBLI,  
BANGALORE EAST TALUK.
2. SRI S GOPAL  
S/O SELLAPPA GOUNDER, MAJOR,  
SELLAPPAM PARTY VILLAGE,  
VAIKUNDAM POST, SANKARI TALUK,  
SALEM DISTRICT, TAMIL NADU.
3. MR PRASANNA KUMAR  
S/O NAGARAJ, MAJOR,  
KANNAMANGALA POST,  
BIDHARAHALLI HOBLI,  
BANGALORE EAST TALUK.
4. THE UNITED INDIA INSURANCE CO LTD  
REGIONAL OFFICE NO.18,  
KRISHI BHAVAN, 5TH FLOOR,  
OPP HUDSON CIRCLE,  
NRUPATHUNGA ROAD,  
BANGALORE-560001

...RESPONDENTS

(BY SRI. GOPAL KRISHNA N, ADVOCATE FOR R1,  
SMT. GEETHA R, ADVOCATE FOR R4,



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VIDE ORDER DATED 14/08/2024, NOTICE TO R2 IS  
HELD SUFFICIENT)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST  
THE JUDGMENT AND AWARD DT.14.11.2019 PASSED IN  
MVC NO.5615/2016 ON THE FILE OF THE III ADDITIONAL  
CIVIL JUDGE AND MEMBER, MACT, COURT OF SMALL  
CAUSES, BENGALURU, (SCCH-17), AWARDING  
COMPENSATION OF RS.3,87,800/- WITH INTEREST AT 8  
PERCENT P.A. FROM THE DATE OF PETITION TILL THE  
DATE OF DEPOSIT.

**IN MFA NO. 1434/2021**

**BETWEEN:**

THE NEW INDIA ASSURANCE COMPANY LIMITED  
MAHALAKSHMI CHAMBERS, NO.9, 2ND FLOOR  
M G ROAD, BENGALURU-560001  
REPRESENTED BY THE MANAGER  
THE NEW INDIA ASSURANCE COMPANY LIMITED  
MOTOR THIRD PARTY CLAIMS HUB  
BANGALORE

...APPELLANT

(BY SRI. B.R VENKATESH KAMATH, ADVOCATE)

**AND:**

1. MR D C NAGARAJ  
S/O LATE DODDA YALLAPPA  
AGED ABOUT 56 YEARS  
R/A CHIKKABANAHALLI VILLAGE  
BIDHARAHALLI HOBALI  
BANGALORE EAST TALUK
2. SRI S GOPAL



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S/O SELLAPPA GOUNDER, MAJOR  
SELLAPPAM PATTY VILLAGE  
VAIKUNDAM POST, SANKARI TALUK  
SALEM DISTRICT, TAMIL NADU

3. MR PRASANNA KUMAR  
S/O NAGARAJ, MAJOR  
KANNAMANGALA POST  
BIDHARAHALLI HOBLI  
BANGALORE EAST TALUK
4. THE UNITED INDIA INSURANCE CO LTD  
REGIONAL OFFICE NO.18  
KRISHI BHAVAN, 5<sup>TH</sup> FLOOR  
OPP HUDSON CIRCLE  
NRUPATHUNGA ROAD  
BANGALORE-560001

...RESPONDENTS

(BY SRI. GOPAL KRISHNA N, ADVOCATE FOR R1,  
SMT. GEETHA R, ADVOCATE FOR R4,  
NOTICE TO R2 AND R3 ARE SERVED AND  
UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST  
THE JUDGMENT AND AWARD DATED 14.11.2019 PASSED  
IN MVC NO. 5614/2016 ON THE FILE OF THE III  
ADDITIONAL CIVIL JUDGE AND MEMBER, MACT, COURT OF  
SMALL CAUSES, BENGALURU, SCCH-17, AWARDING  
COMPENSATION OF RS.3,96,400/- WITH INTEREST AT 8  
PERCENT P.A. FROM THE DATE OF PETITION TILL THE  
DATE OF DEPOSIT.

**IN MFA NO. 2019/2022**

**BETWEEN:**

M/S UNITED INDIA INSURANCE COMPANY LTD  
REGIONAL OFFICE, NO.18, KRISHI BHAVAN,  
5<sup>TH</sup> FLOOR, OPPOSITE HUDSON CIRCLE,



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NRUPATHUNGA ROAD, BANGALORE-560 01  
REPRESENTED BY K.G.GHIMIRAJ  
REGIONAL MANAGER.

...APPELLANT

(BY SMT. GEETHA R, ADVOCATE)

**AND:**

1. MR D N PRASANNA KUMAR  
S/O B.S. NAGARAJ  
AGED 34 YEARS,  
R/AT DODDABANAHALLI VILLAGE,  
KANNAMANGALA POST,  
BIDARAHALLI HOBLI,  
BANGALORE EAST TALUK.
2. MR.S GOPAL  
S/O SELLAPPA GOUNDER,  
MAJOR, SELLAPPAM PATTY VILLAGE,  
VAIKUNDAM POST, SANKARI TALUK,  
SALEM DISTRICT, TAMIL NADU.
3. THE NEW INDIA ASSURANCE COMPANY LTD.,  
MOTOR TP HUB MAHALAKSHMI CHAMBERS,  
NO.9, 2ND FLOOR, M.G.ROAD,  
BANGALORE-560 001.
4. MR.PRASANNA KUMAR  
S/O NAGARAJ, MAJOR,  
KANNAMANGALA POST,  
BIDARAHALLI HOBLI,  
BANGALORE EAST TALUK.

...RESPONDENTS

(BY SRI. GOPAL KRISHNA N, ADVOCATE FOR R1,  
SRI. B.R. VENKATESH KAMATH, ADVOCATE FOR R3,  
NOTICE TO R2 AND R4 ARE SERVED AND  
UNREPRESENTED)



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THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 14.11.2019 PASSED IN MVC NO.5615/2016 ON THE FILE OF THE III ADDITIONAL CIVIL JUDGE AND MEMBER, MACT, COURT OF SMALL CAUSES, BENGALURU (SCCH-17), AWARDED COMPENSATION OF RS. 3,87,800/- WITH INTEREST AT 8 PERCENT P.A.(FUTURE MEDICAL EXPENSES DOES NOT CARRY ANY INTEREST) FROM THE DATE OF PETITIONS TILL THE DATE OF DEPOSIT.

**IN MFA NO. 3780/2022**

**BETWEEN:**

SRI D C NAGARAJ  
S/O LATE DODDA YALLAPPA  
NOW AGED ABOUT 37 YEARS  
RESIDING AT  
CHIKKABANAHALLI VILLAGE  
BIDARANAHALLI HOBLI  
BENGALURU EAST TALUK

...APPELLANT

(BY SRI. GOPAL KRISHNA N, ADVOCATE)

**AND:**

1. SRI S GOPAL  
S/O SELLAPPA GOUNDER  
MAJOR BY AGE  
RESIDING AT  
SELLAPPAM PATTY VILLAGE  
VAIKUNDAM POST  
SANKARI TALUK  
SALEM DISTRICT-637301
2. THE NEW INDIA ASSURANCE  
COMPANY LIMITED  
MOTOR TP HUB



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MAHALAKSHMI CHAMBERS  
NO.9, 2<sup>ND</sup> FLOOR, M.G.ROAD  
BENGALURU - 560 001  
REP.BY ITS MANAGER

3. SRI PRASANNA KUMAR  
S/O NAGARAJ  
MAJOR BY AGE  
RESIDING AT KANNAMANGALA POST  
BIDARAHALLI HOBLI  
BENGALURU EAST TALUK - 560 067
4. UNITED INDIA INSURANCE  
COMPANY LIMITED  
REGIONAL OFFICE  
NO,18, KRISHI BHAVANA  
5<sup>TH</sup> FLOOR OPP: HUDSON CIRCLE  
NRUPATUNGA ROAD  
BENGALURU - 560 001  
REP BY ITS MANAGER

...RESPONDENTS

(BY SRI. B.R. VENKATESH KAMATH, ADVOCATE FOR R2,  
SMT. GEETHA R, ADVOCATE FOR R4,  
NOTICE TO R1 IS SERVED AND UNREPRESENTED,  
VIDE ORDER DATED 13.11.2022, NOTICE TO R3 IS  
DISPENSED WITH)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST  
THE JUDGMENT AND AWARD DT.14.11.2019 PASSED IN  
MVC NO.5614/2016 ON THE FILE OF THE III ADDITIONAL  
CIVIL JUDGE AND MEMBER, MACT, COURT OF SMALL  
CAUSES, BENGALURU, (SCCH-17), PARTLY ALLOWING  
THE CLAIM PETITION FOR COMPENSATION AND SEEKING  
ENHANCEMENT OF COMPENSATION.



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**IN MFA NO. 3840/2022**

**BETWEEN:**

SRI D N PRASANNA KUMAR  
S/O B.S. NAGARAJ  
NOW AGED ABOUT 37 YEARS  
RESIDING AT  
DODDABANAHALLI VILLAGE,  
KANNAMANGALA POST,  
BIDARAHALLI HOBLI,

BENGALURU EAST TALUK.

...APPELLANT

(BY SRI. GOPAL KRISHNA N, ADVOCATE)

**AND:**

1. SRI S GOPAL  
S/O SELLAPPA GOUNDE  
MAJOR BY AGE,  
RESIDING AT  
SELLAPPAM PATTY VILLAGE,  
VAIKUNDAM POST,  
SANKARI TALUK,  
SALEM DISTRICT-637301.
2. THE NEW INDIA ASSURANCE  
COMPANY LTD.,  
MOTOR TP HUB,  
MAHALAKSHMI CHAMBERS,  
NO.9, 2<sup>ND</sup> FLOOR, M.G. ROAD,  
BENGALURU-560001.  
REP. BY ITS MANAGER.
3. UNITED INDIA INSURANCE COMPANY LTD.,  
REGIONAL OFFICE,  
NO.18, KRISHI BHAVANA,  
5<sup>TH</sup> FLOOR, OPP. HUDSON CIRCLE,  
NRUPATHUNGA ROAD,



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BENGALURU -560001.  
REP. BY ITS MANAGER.

...RESPONDENTS

(BY SRI. B.R. VENKATESH KAMATH, ADVOCATE FOR R2,  
SMT. GEETHA R, ADVOCATE FOR R3,  
NOTICE TO R1 IS SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST  
THE JUDGMENT AND AWARD DT.14.11.2019 PASSED IN  
MVC NO.5615/2016 ON THE FILE OF THE XIX ADDITIONAL  
JUDGE, MACT, BENGALURU, (SCCH-17), PARTLY  
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND  
SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

### **ORAL JUDGMENT**

1. These six appeals are directed against the common  
judgment dated 14.11.2019 passed in MVC.Nos.5614 &  
5615/2016 by the Tribunal.

2. The factual matrix of the case is that, on 17.03.2016 at  
about 2.20 p.m., when the claimant in MVC.No.5614/2016  
namely D.C.Nagaraj, traveling in a car bearing registration  
No.KA-53-MA-2057 being driven by its owner i.e., claimant in  
MVC.No.5615/2016 namely D.N.Prasanna Kumar, reached near  
Kammasandra village, Hosakote-Devanahalli Road, Hosakote,



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the driver of the lorry bearing registration No.TN-52-F-4464 came in a rash and negligent manner and dashed against the car. As a result of which, the claimants suffered grievous injuries. As such, they filed aforesaid claim petitions claiming compensation for the injuries suffered in a road traffic accident.

3. The Tribunal, on assessment of both oral and documentary evidence, has awarded a sum of Rs.3,96,400/- as compensation in MVC.No.5614/2016 and a sum of Rs.3,87,800/- as compensation in MVC.No.5615/2016 attributing contributory negligence at 50 : 50 on the driver of both the vehicles i.e., the car and the lorry and consequently, saddling 50% liability on the insurer of both the car and the lorry to make good the compensation. However, in respect of insurer of the car, liberty was granted to recover the same from the owner of the car.

4. Aggrieved by the said judgment and award, two batches of appeals were filed, one batch is by the claimant, insurer of the car and the insurer of the lorry in MVC.No.5614/2016 i.e., MFA.3780/2022, MFA.2035/2022 and MFA.1434/2021 respectively and the other batch is by the claimant, insurer of



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the car and the insurer of the lorry in MVC.No.5615/2016 i.e.,  
MFA.3840/2022, MFA.2019/2022 and MFA.356/2021  
respectively.

5. Heard the learned counsel for the respective parties and  
perused the material on record.

6. Learned counsel for the insurer of the car would contend  
that the Tribunal has erred in attributing 50% contributory  
negligence on the part of the driver of the car solely relying on  
the charge sheet Ex.P3 and Ex.P5 - spot sketch. According to  
her, immediately after the accident, a complaint came to be  
lodged by one Krishnappa as per Ex.P2, wherein he has  
categorically stated that the accident had occurred due to the  
sole negligence of the driver of the lorry. Thereafter, in the  
inquest panchanama - Ex.R15, the statement of the relatives of  
the claimants would also reveal that the accident occurred due  
to the negligence driver of the lorry. Further, the wound  
certificate of the injured claimant in MVC.No.5614/2016 - Ex.P7  
would also reveal that he sustained injuries while travelling in a  
four wheeler knocked down by lorry. The discharge summary -  
Ex.P9 also depicts that the accident was due to the sole



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negligence of the driver of the lorry. Further, the spot mahazar at Ex.P4 reveals that the driver of the lorry drove the same in a rash and negligent manner and dashed against the car. Despite all these documents, the investigation officer - RW.2 laid charge sheet against the driver of the car. Moreover, either the owner of the lorry or the insurer of the lorry has examined the driver of the lorry to rebut the documents. In such circumstances, the Tribunal ought to have saddled entire negligence on the part of the driver of the lorry. Notwithstanding, this contention she would also contend that since the driver of the car was not possessing valid driving licence at the time of accident and he being the owner of the car and since it is a third party insurance, the insurer is not liable to make good the compensation by way of pay and recovery as held by the Tribunal. She would also contend that the Tribunal has erred in awarding exorbitant compensation in both the cases. With these submissions, she prays to allow the appeals of the insurer of the car.

7. On the other hand, learned counsel for the insurer of the lorry would contend that the Tribunal was not justified in



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saddling 50% negligence on the part of the driver of the lorry. By placing reliance on Ex.P5 - rough sketch of the spot, he would contend that the lorry was proceeding from south to north i.e., Hoskote to Sulibele and the accident had occurred on the extreme left western side of the road, which would reveal that the lorry was proceeding in the right direction, whereas the car, which came from north to south i.e., Sulibele to Hoskote i.e., opposite direction, moved to the extreme right side of the road and dashed against the lorry. The said aspect of the matter has been further clarified in the spot mahazar and even the charge sheet has been filed against the driver of the car. According to him, the complaint was lodged by the relative of the claimant and that during the course of inquest mahazar, the relative of the injured stated that the accident had occurred due to the negligent driving of the lorry, however, the relatives of the claimant were not the eye witnesses to the accident and only to overcome the aspect that the driver of the car was not possessing valid driving licence, they had stated as such. He also relied on the evidence of RW.2 - investigation officer, who categorically stated in his evidence that the accident occurred



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due to the negligent driving of the car. Hence, he would contend that the Tribunal ought to have attributed entire negligence on the driver of the car and saddled entire liability on the insurer of the car to make good the compensation. Accordingly, he prays to allow the appeals of the insurer of the lorry.

8. *Per contra*, learned counsel for the claimants would submit that the Tribunal was not justified in awarding meagre compensation and accordingly, would pray for allowing of the appeal of the claimants by enhancing the compensation.

9. I have given my anxious consideration to the submissions of learned counsel for the respective parties and perused the material on record.

10. As could be gathered from records, the occurrence of the accident and the coverage of insurance policy to both the vehicle involved in the accident are not in dispute.

11. The Tribunal upon appreciation of evidence both oral and documentary attributed 50% negligence on the driver of both the vehicles and consequently, saddled liability on the insurer



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of both the car and the lorry. I have carefully examined the investigation documents, so also the evidence of RW.2 - Investigation Officer. Immediately after the accident, a complaint was lodged by one Krishnappa who is the relative of the claimant as per Ex.P2. In the said complaint, it is stated that the accident had occurred due to the negligence driving of the lorry. Accordingly, FIR came to be registered against the driver of the lorry. Immediately, thereafter inquest mahazar was conducted as per Ex.R15 and the Investigation Officer has recorded the statement of the relatives of the claimant, who reiterated the version of the complainant. However, thereafter, the Investigation Officer visited the spot and prepared a rough sketch as per Ex.P5 and the spot mahazar Ex.P4. On careful scrutiny of Ex.P5, it can be noticed that the lorry was proceeding from south to north i.e., Hoskote to Sulibele and the accident had occurred on the extreme left western side of the road, which would reveal that the lorry was proceeding in the right direction, whereas the car, which came from north to south i.e., Sulibele to Hoskote i.e., opposite direction, moved to the extreme right side of the road and dashed against the lorry.



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Moreover, the spot mahazar depicts that on the western side footpath there were tyre marks of the lorry and beside the footpath there was a pit. Though the contents of Ex.P4 - spot mahazar depicts that the accident caused due to negligent driving of the driver of the lorry, the rough sketch is quite contrary to the contents of Ex.P4. Moreover, RW.2 - Investigation Officer, who was examined on behalf of the insurer, had stated in the cross-examination that - "it is not correct to suggest that the accident has taken place due to the negligence of lorry driver" and "it is not correct to suggest that he has not conducted the investigation properly and had filed false charge sheet". This evidence of RW.2 - Investigation Officer corroborates with Ex.P5 - spot sketch and Ex.P3 - charge sheet. Further, on perusal of Ex.P6 - MVA report, it is seen that the front portion of both the vehicles were damaged substantially due to head on collision. As discussed supra, one part of the investigation reveals that the accident had occurred due to the negligent driving of the driver of the lorry and the other part of the investigation reveals that the accident had occurred due to the negligent driving of driver of the car. In



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such circumstances, I am of the considered view that the Tribunal was justified in attributing 50:50 negligence on the driver of both the vehicles and consequently, saddling 50% liability on the insurer of both the vehicles. As such, I find no good ground to interfere with the said finding of the Tribunal and the same is affirmed.

12. As regards liability of the insurer of the car, the Tribunal directed the insurer of the car to deposit the compensation and thereafter recover the same from the owner of the car as there is violation of policy conditions. Since there is violation of policy conditions, I am of the considered opinion that in view of the law laid down by the Apex Court in the case Oriental Insurance Co. Ltd. Vs. Nanjappa & Others (2004) 13 SCC 224, the Tribunal was justified in recording the said finding. As such, the said finding is affirmed.

13. However, learned counsel for the insurer of the car would contend that since the driver of the car being its owner and the insurance policy of the said car being third party insurance, the insurer is not liable to make good the compensation in respect of claimant in MVC.No.5615/2016 and as such, she would pray



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for refund of amount deposited in the said case. In view of the policy of the car being third party insurance, I am of the view that the insurer would not be liable to make good the compensation in respect of claimant in MVC.No.5615/2016. As such, the amount deposited in the said case is directed to be refunded to the insurer of the car. However, in respect of compensation payable to the claimant in MVC.No.5614/2016, it is made clear that the insurer of the car is liable to deposit its portion of the compensation amount and thereafter, recover the same from the owner of the car.

14. As regards the award of interest at 8% p.a., as contended by the learned counsel for the insurer of both the vehicles that in view of the judgment of this Court in the case of ***Ms. Joyeeta Bose and others vs. Venkateshan V., and others*** in ***M.F.A.No.5896/2018***, wherein it is held that 6% interest has to be awarded for the compensation in the Motor Accident Claims, the interest awarded in the instant case is reduced to 6% p.a.



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**AS REGARDS QUANTUM OF COMPENSATION:**

**IN MFA.No.3780/2022:**

15. The Tribunal, on assessment of evidence, has awarded the following sums as compensation:

| <b>Sl. No.</b> | <b>Particulars</b>                            | <b>Amount in (Rs.)</b> |
|----------------|-----------------------------------------------|------------------------|
| 1.             | Pain and suffering                            | 45,000/-               |
| 2.             | Loss of amenities                             | 20,000/-               |
| 3.             | Nourishment, conveyance and attendant charges | 5,000/-                |
| 4.             | Medical expenses                              | 1,37,400/-             |
| 5.             | Loss of future income                         | 1,48,000/-             |
| 6.             | Loss of income during laid up period          | 21,000/-               |
| 7.             | Future medical expenses                       | 20,000/-               |
|                | <b>Total</b>                                  | <b>3,96,400/-</b>      |

16. The Tribunal, on analysis of medical evidence, has concluded that the claimant has suffered permanent disability to the extent of 16% to the whole body.



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17. I have perused the evidence of the Doctor - PW.3 and the wound certificate. The same depicts that the claimant has sustained posterior wall fracture of the right acetabulum and has also underwent surgery with ORIF with 9 holed acetabular recon plate and one cannulated cancellous screws.

18. Since the Doctor has assessed the disability of 58% to the right lower limb and 19% to the whole body, it would be just and appropriate to assess the disability at **19%**.

19. The Tribunal has determined the monthly income, notionally at Rs.7,000/-. Since there is no credible documentary evidence to ascertain the actual monthly income, it would be appropriate and prudent to adopt the monthly income determined by Karnataka State Legal Services Authority, which, for the accident of the year 2016, would be **Rs.9,500/-**.

20. As the claimant was aged about 52 years, a multiplier of '11' would have to be applied. Consequently, the claimant would be entitled to a sum of **Rs.2,38,260/-** (9,500 x 12 x 11



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x 19%) towards '*loss of future income*' as against Rs.1,48,000/- awarded by the Tribunal.

21. Consequently, the amount of Rs.21,000/- awarded by the Tribunal towards '*loss of income during the laid up period*' would also stand enhanced to **Rs.28,500/-** (Rs.9,500 X 3 months) treating the laid up period as three months.

22. Having regard to the injuries suffered by the claimant, the claimant would be entitled to a sum of **Rs.50,000/-** towards '*pain and agony*' as against Rs.45,000/- awarded by the Tribunal.

23. Having regard to the lasting effects of the injuries on the claimant, the claimant would be entitled to a sum of **Rs.30,000/-** towards loss of amenities and nourishment, as against the sum of Rs.20,000/- awarded by the Tribunal.

24. The sum of **Rs.5,000/-** awarded towards '*Conveyance and attendant charges*' and **Rs.20,000/-** awarded towards '*future medical expenses*' by the Tribunal, being just and proper, stand affirmed.



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25. The sum of **Rs.1,37,400/-** awarded by the Tribunal towards medical expenses, being based on documentary evidence, is affirmed.

26. Consequently, the award of the Tribunal is modified and the claimant would be entitled to the following compensation:

| <b>Sl. N o.</b> | <b>Compensation under different Heads</b>     | <b>As awarded by the Tribunal (Rs.)</b> | <b>As awarded by this Court (Rs.)</b> |
|-----------------|-----------------------------------------------|-----------------------------------------|---------------------------------------|
| 1.              | Pain and suffering                            | 45,000                                  | 50,000                                |
| 2.              | Loss of amenities                             | 20,000                                  | 30,000                                |
| 3.              | Nourishment, conveyance and attendant charges | 5,000                                   | 5,000                                 |
| 4.              | Medical expenses                              | 1,37,400                                | 1,37,400                              |
| 5.              | Loss of future income                         | 1,48,000                                | 2,38,260                              |
| 6.              | Loss of income during laid up period          | 21,000                                  | 28,500                                |
| 7.              | Future medical expenses                       | 20,000                                  | 20,000                                |
|                 | <b>Total</b>                                  | 3,96,400                                | 5,09,160                              |

27. Thus, the claimant is held entitled to the total compensation of **Rs.5,09,160/-** as against Rs.3,96,400/-, along with interest at the rate of 6% per annum instead of 8% per annum from the date of petition till its realization.



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28. The Insurance Company is directed to deposit the amount of compensation awarded within six weeks from the date of receipt of a certified copy of this judgment.

**IN MFA.No.3840/2022:**

29. The Tribunal, on assessment of evidence, has awarded the following sums as compensation:

| Sl. No. | Particulars                                   | Amount in (Rs.) |
|---------|-----------------------------------------------|-----------------|
| 1.      | Pain and suffering                            | 45,000          |
| 2.      | Loss of amenities                             | 20,000          |
| 3.      | Nourishment, conveyance and attendant charges | 5,000           |
| 4.      | Medical expenses                              | 75,200          |
| 5.      | Loss of future income                         | 2,01,600        |
| 6.      | Loss of income during laid up period          | 21,000          |
| 7.      | Future medical expenses                       | 20,000          |
|         | <b>Total</b>                                  | <b>3,87,800</b> |

30. The Tribunal, on analysis of medical evidence, has concluded that the claimant has suffered permanent disability to the extent of 16% to the whole body.



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31. I have perused the evidence of the Doctor - PW.4 and the wound certificate. The same depicts that the claimant has sustained right comminuted humeral head intra articular fracture and has also underwent surgery with ORIF plate and screws.

32. Since the Doctor has assessed the disability at 60% to the arm and 20% to the whole body, I deem it just and appropriate to assess the disability at **18%**.

33. The Tribunal has determined the monthly income, notionally at Rs.7,000/-. Since there is no credible documentary evidence to ascertain the actual monthly income, it would be appropriate and prudent to adopt the monthly income determined by Karnataka State Legal Services Authority, which, for the accident of the year 2016, would be **Rs.9,500/-**.

34. As the claimant was aged about 36 years, a multiplier of '15' would have to be applied. Consequently, the claimant would be entitled to a sum of **Rs.3,07,800/-** (9,500 x 12 x 15



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x 18%) towards '*loss of future income*' as against Rs.2,01,600/- awarded by the Tribunal.

35. Consequently, the amount of Rs.21,000/- awarded by the Tribunal towards '*loss of income during the laid up period*' would also stand enhanced to **Rs.28,500/-** (Rs.9,500 X 3 months) treating the laid up period as three months.

36. Having regard to the injuries suffered by the claimant, the claimant would be entitled to a sum of **Rs.50,000/-** towards '*pain and agony*' as against Rs.45,000/- awarded by the Tribunal.

37. Having regard to the lasting effects of the injuries on the claimant, the claimant would be entitled to a sum of **Rs.30,000/-** towards loss of amenities, as against the sum of Rs.20,000/- awarded by the Tribunal.

38. The sum of **Rs.5,000/-** awarded towards 'Conveyance and attendant charges' and **Rs.20,000/-** awarded towards '*future medical expenses*' by the Tribunal, being just and proper, stand affirmed.



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39. The sum of **Rs.75,200/-** awarded by the Tribunal towards medical expenses, being based on documentary evidence, is affirmed.

40. Consequently, the award of the Tribunal is modified and the claimant would be entitled to the following compensation:

| <b>Sl. N o.</b> | <b>Compensation under different Heads</b>     | <b>As awarded by the Tribunal (Rs.)</b> | <b>As awarded by this Court (Rs.)</b> |
|-----------------|-----------------------------------------------|-----------------------------------------|---------------------------------------|
| 1.              | Pain and suffering                            | 45,000                                  | 50,000                                |
| 2.              | Loss of amenities                             | 20,000                                  | 30,000                                |
| 3.              | Nourishment, conveyance and attendant charges | 5,000                                   | 5,000                                 |
| 4.              | Medical expenses                              | 75,200                                  | 75,200                                |
| 5.              | Loss of future income                         | 2,01,600                                | 3,07,800                              |
| 6.              | Loss of income during laid up period          | 21,000                                  | 28,500                                |
| 7.              | Future medical expenses                       | 20,000                                  | 20,000                                |
|                 | <b>Total</b>                                  | <b>3,87,800</b>                         | <b>5,16,500</b>                       |

41. Thus, the claimant is held entitled to the total compensation of **Rs.5,16,500/-** as against Rs.3,87,800/-, along with interest at the rate of 6% per annum instead of 8% per annum from the date of petition till its realization.



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42. The Insurance Company is directed to deposit the amount of compensation awarded within six weeks from the date of receipt of a certified copy of this judgment.

43. The amount in deposit in the appeals of the insurer shall be transferred to the concerned Tribunal.

Accordingly, the appeals are allowed in part.

**SD/-  
(RAJESH RAI K)  
JUDGE**

PKS  
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