



CNR: KAHC010262372025

NC: 2026:KHC:52598
MFA No. 2905 of 2025
C/W MFA No. 2661 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 2905 OF 2025
(MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 2661 OF 2025
(MV-I)

IN MFA No. 2905/2025

BETWEEN:

MAHANTHESH N.
S/O NINGAPPA,
AGED ABOUT 31 YEARS,
R/AT NO.68, DOREHATTI ROAD,
BEHIND HIGH SCHOOL, NANNIVALA POST,
CHALLAKERE TQ,
CHITRADURGA - 577 522.

...APPELLANT

(BY SMT. TEJASWINI K., ADVOCATE FOR
SRI. KALLESH K.,ADVOCATE)

AND:

1. VEERABHADRAPPA M.
S/O MALLESHAPPA,
AGE MAJOR,
R/AT NO.88/6, RUDRESHWARA NILAYA,
A DIVISION,
GANAPATHI TEMPPLE ROAD, HOLALKERE TALUK,
CHITRADURGA - 577 526.

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JUDGE, HIGH COURT OF KARNATAKA





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2. THE LEGAL MANAGER
NATIONAL GENARAL INAURANCE CO. LTD,
NO.25/1, 2ND FLOOR, BUILDING NO.2,
SHANKARANARAYANA BUILDING, M.G ROAD,
BANGALORE - 01.

...RESPONDENTS

(BY SRI. G.S. MARULAIAH, ADVOCATE FOR R2;
VIDE ORDER DATED 13.02.2026, NOTICE TO R1
IS DISPENSED WITH)

THIS MFA FILED IS U/S.173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 13.01.2025 PASSED IN MVC
NO.2406/2024 ON THE FILE OF THE XXIII ADDITIONAL SMALL
CAUSES JUDGE AND MOTOR ACCIDENT CLAIMS TRIBUNAL,
BENGALURU (SCCH-25), PARTLY ALLOWING THE CLAIM
PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT
OF COMPENSATION.

IN MFA NO. 2661/2025

BETWEEN:

1. THE LEGAL MANAGER
NATIONAL GENERAL INSURANCE CO. LTD.,
NO.25/1, 2ND FLOOR, BUILDING NO.2,
SHANKARANARAYANA BUILDING, M.G.ROAD,
BANGALORE - 560 001.
REPRESENTED BY ITS MANAGER,
NATIONAL INSURANCE CO. LTD., REGIONAL OFFICE,
NO.144, SHUBRAM COMPLEX, M.G.ROAD,
BENGALURU - 560 001.

...APPELLANT

(BY SRI. G.S. MARULAIAH, ADVOCATE)

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AND:

1. MR. MAHANTHESH N.
S/O NINGAPPA,
AGED ABOUT 31 YEARS,
R/A #68, DOREHATTI ROAD,
BEHIND HIGH SCHOOL, NANNIVALA POST,
CHALLKERE TALUK,
CHITRADURGA DISTRICT -577 522.
2. SRI. VEERABHADRAPPA M.
S/O MALLESHAPPA,
AGE MAJOR,
R/AT NO.88/6, RUDRESHWARA NILAYA,
A DIVISION, GANAPATHI TEMPLE ROAD,
HOLALKERE,
CHITRADURGA DISTRICT - 577 526.

...RESPONDENTS

(BY SMT. TEJASWINI K., ADVOCATE FOR
SRI. KALLESH K.,ADVOCATE)

THIS MFA FILED IS U/S.173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 13.01.2025 PASSED IN MVC
NO.2406/2024 ON THE FILE OF THE XXIII ADDITIONAL
SMALL CAUSES JUDGE AND MACT, BENGALURU (SCCH-25),
AWARDING COMPENSATION OF RS.5,45,800/- WITH
INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION
TILL THE DATE OF DEPOSITING THE AMOUNT.

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

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CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

Miscellaneous First Appeal No.2905/2025 is filed by the claimant seeking enhancement of the compensation awarded in MVC No.2406/2024 and Miscellaneous First Appeal No.2661/2025 is filed the insurer challenging the liability and quantum of compensation awarded in the Judgment and Award dated 13.01.2025 passed in MVC No.2406/2024 by XXIII Additional Small Causes Judge and MACT, Bengaluru (SCCH-25).

2. The claimant made a claim petition seeking for award of compensation for the injury sustained by him in a road traffic accident occurred on 15.10.2023 contending that the accident occurred due to rash and negligent driving of the driver of lorry bearing registration No.KA-16-J-8316.

3. The Tribunal recorded the evidence adduced by the parties and upon appreciating the evidence on record,

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assessed the compensation and awarded the compensation under various heads as under:

Sl. No.	Particulars	Amount
1.	Pain and suffering	Rs. 80,000/-
2.	Medical expenses	Rs. 63,349/-
3.	Loss of income during laid up period	Rs. 16,000/-
4.	Loss of future income	Rs. 3,26,400/-
5.	Loss of future amenities and happiness	Rs. 20,000/-
6.	Attendant, conveyance, food and nourishment charges	Rs. 20,000/-
7.	Future medical expenses	Rs. 20,000/-
	Total	Rs. 5,45,749/- (Rounded off to Rs.5,45,800/-)

4. The Tribunal has also awarded the interest at the rate of 6% per annum from the date of petition till realisation and directed the insurer to pay the compensation awarded with interest. The insurer has challenged the liability and quantum of compensation awarded by the Tribunal. The claimant has filed the present appeal seeking enhancement of compensation.

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5. Heard the learned counsel for the claimant and learned counsel for the insurer.

6. Learned counsel for the insurer would contend that, the claimant was riding the motorcycle and was not maintaining the sufficient distance and when the insured lorry applied brake, he dashed on the back side of the lorry and sustained injuries. As the claimant has not maintained sufficient distance between his motorcycle and the lorry, the entire negligence is on the part of the rider of the motorcycle who is the claimant. On that point, he placed reliance on the decision of the Hon'ble Apex Court in the case of **NISHAN SINGH AND OTHERS vs. ORIENTAL INSURANCE COMPANY LIMITED AND OTHERS** reported in **(2018) 6 SCC 765** and in the case of **ORIENTAL INSURANCE COMPANY LIMITED vs. TATE AIG GENERAL INSURANCE COMPANY LIMITED AND ORS.** reported in **2026 INSC 208**.

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7. He further submits that, the claimant has taken treatment in BGS Hospital, Bengaluru, after six (06) months of the accident and the said treatment is for some other ailments and therefore award of compensation towards medical expenses as noted in Ex.P7 - bills is not proper. The compensation awarded on all heads is on higher side and set aside the Judgment and Award passed by the Tribunal. With these, he prayed to allow the appeal.

8. Learned counsel for the claimant would contend that, the accident occurred during night hours at about 9:45 p.m. The lorry suddenly applied brake and there was no brake lights on the rear side of the lorry and therefore, the rider of the motorcycle dashed against back side of the lorry and sustained injuries.

9. The charge sheet has been filed against driver of the lorry and in the criminal case, he has pleaded guilty and convicted for the offences punishable under Sections 279 and 337 of Indian Penal Code and he had paid fine.

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The said aspect itself clearly indicates that driver of the lorry drove in a rash and negligent manner and caused the accident.

10. Learned counsel for the claimant further submits that, the Tribunal has only awarded bills amount of Ex.P7, but has not awarded the bills amount of Ex.P11. Ex.P.11 - bills pertains to the treatment taken by the claimant in hospital at Chitradurga. The compensation awarded towards pain and sufferings, loss of amenities and loss of income during laid up period are on lower side. She further submits that, the Tribunal based on the evidence of Doctor - P.W.2 has rightly taken the disability at 10% and awarded loss of future income due to disability. She also submits that, the notional income fixed for the year 2023 by the Karnataka State Legal Services Authority is Rs.16,250/- and the said income is to be taken as against Rs.16,000/- taken by the Tribunal. The claimant has to undergo surgery for removal of implants and considering the same, the compensation awarded

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towards future medical expenses is on lower side. With these, she prayed to allow the appeal filed by the claimant and enhancement of compensation.

11. Having heard the learned counsel for insurer and learned counsel for claimant, the Court has perused the impugned Judgment, Award and Trial Court records.

12. The following points are raised for consideration:

- I) Whether the Tribunal is justified in holding that the accident has been caused due to rash and negligent driving of the driver of lorry bearing registration No.KA-16-J-8316?
- II) Whether the compensation awarded by the Tribunal is just and proper?

REASONS

13. **POINT NO.I :** The accident occurred on 15.10.2023 at about 9:45 p.m. and the accident occurred during night hours. Driver of the lorry bearing registration No.KA-16-J-8316 which was proceeding ahead of the claimant's motorcycle and suddenly stopped the lorry by

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applying brake and the claimant who was riding motorcycle dashed against the said lorry and sustained injuries. What was the distance between lorry and motorcycle of the claimant has not been brought on record in the cross-examination of P.W.1. The insurer and insured have not lead any evidence that rash and negligent driving is on the part of the rider of motorcycle. Ex.P2 - Charge sheet and it is filed against driver of the lorry for the offences punishable under Sections 279 and 337 of Indian Penal Code. The criminal case has been registered against driver of the lorry based on the said charge sheet in C.C.No.1189/2023. Driver of the lorry has pleaded guilty and has been convicted for the offences punishable under Sections 279 and 338 of Indian Penal Code and the copy of order is at Ex.P10. The very said aspect clearly establishes the rash and negligent driving is on the part of driver of the lorry.

14. The judgment relied upon by the learned counsel for the insurer in the case of **NISHAN SINGH**

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AND OTHERS *supra*, the facts indicate that there was a specific distance between the Maruti Car and the Truck is about ten (10) to fifteen (15) feet and it is held to be not a safe distance.

15. The judgment relied upon by the learned counsel for the insurer in another case i.e., **ORIENTAL INSURANCE COMPANY LIMITED** *supra*, the cleaner of the Truck was the claimant has specifically stated that the driver of Truck could not control the Truck due to high speed and dashed against the vehicle moving ahead i.e., Tractor and the Truck was moving at a distance of 20 feet from the Tractor. In those cases, the evidence indicated the distance between two vehicles.

16. In the case on hand, there is no evidence forthcoming as to what was the distance between the lorry and motorcycle of the claimant. Therefore, the said two decisions are not applicable with the facts of the present case on hand.

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17. P.W.1 - Claimant has specifically stated that he was moving slowly and driver of the lorry suddenly applied brake and brake lights were not on and he went and dashed to the lorry as he not saw the lorry due to night hours. Considering the said aspect, it is clear that the entire negligence is on the part of the driver of lorry and the Tribunal has rightly held so. Accordingly, **point No.I** is answered.

18. **POINT NO.II** : The claimant has sustained displaced fracture of left clavicle as per Ex.P5 - Wound Certificate. Considering the said injury, the compensation awarded towards pain and suffering in a sum of Rs.80,000/- is just and proper. So also, the compensation awarded towards loss of amenities in a sum of Rs.20,000/- is just and proper. The claimant has been admitted in hospital for six (06) days and considering the same, the compensation awarded towards attendant, conveyance, food and nourishment charges in a sum of Rs.20,000/- is just and proper.

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19. The notional income fixed for the year 2023 by the Karnataka State Legal Services Authority is Rs.16,250/- and the said income is to be taken as against Rs.16,000/- taken by the Tribunal.

20. P.W.2 - Doctor has examined the claimant, assessed the disability and stated that the claimant has sustained disability of upper limb at 30% and whole body at 10%. Considering the age of the claimant as thirty (30) years, the multiplier applicable is '17'. In view of the same, loss of future income due to disability is calculated as under:

$$\text{Rs.16,250/-} \times 12 \times 17 \times 10\% = \text{Rs.3,31,500/-}.$$

21. Considering the occupation of the claimant as electrician and the fracture sustained, the claimant has to take rest atleast for two (02) months and therefore, he is entitled to loss of income during laid up period in a sum of Rs.32,500/- (Rs.16,250/- X 02 months) as against Rs.16,000/- awarded by the Tribunal.

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22. The Tribunal has only awarded medical expenses of Rs.63,349/- based on the bills produced under Ex.P7. There are other bills contained in Ex.P11, but there is no evidence for the said bills. Therefore, the claimant is not entitled to medical expenses as per Ex.P11 - bills.

23. P.W.2 - Doctor has stated that the claimant has to undergo surgery for removal of implants and therefore, he is entitled to future medical expenses in a sum of Rs.30,000/- as against Rs.20,000/- awarded by the Tribunal.

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

Sl. No.	Particulars	Amount
1.	Pain and suffering	Rs. 80,000/-
2.	Medical expenses	Rs. 63,349/-
3.	Loss of income during laid up period	Rs. 32,500/-
4.	Loss of future income due to disability	Rs. 3,31,500/-
5.	Loss of amenities	Rs. 20,000/-

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6.	Attendant and conveyance charges	Rs. 20,000/-
7.	Future medical expenses	Rs. 30,000/-
	Total	Rs. 5,77,349/-

25. The claimant is entitled to total compensation of Rs.5,77,349/- as against Rs.5,45,800/- awarded by the Tribunal with interest.

26. Consequently, the claimant is entitled to enhanced compensation of Rs.31,549/- (Rs.5,77,349/- - Rs.5,45,800/-) with interest at the rate of 6% per annum from the date of petition till realisation.

27. The insurer is liable to pay the said enhanced compensation amount with interest.

28. In view of the above, the following:

ORDER

- i) *Miscellaneous First Appeal No.2661/2025 filed by the insurer is **dismissed**.*
- ii) *Miscellaneous First Appeal No.2905/2025 filed by the claimant is **allowed-in-part**.*

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- iii) *The claimant is entitled to enhanced compensation of Rs.31,549/- with interest at the rate of 6% per annum from the date of petition till realisation.*
- iv) *The insurer shall deposit the enhanced compensation amount with interest before the Tribunal within a period of six weeks from this day.*
- v) *The claimant is entitled to release of entire enhanced compensation with interest.*
- vi) *The amount in deposit is ordered to be transmitted to the Tribunal.*

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(SHIVASHANKAR AMARANNAVAR)
JUDGE

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List No.: 1 Sl No.: 30