



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCELLANEOUS FIRST APPEAL NO. 3363 OF 2017 (MV-I)

BETWEEN:

GANGADHAR @ GANGADHARAIHAH,
S/O LATE MUDDAPPA @ MUDDEGOWDARU,
AGED ABOUT 61 YEARS,
R/AT SOMANAHALLI VILLAGE,
C N HALLI TALUK,
NOW RESIDING AT K B CROSS,
TIPTUR TALUK - 572 201.

...APPELLANT

(BY SRI MANJUNATH N D, ADVOCATE)

AND:

1. VIJAY K C,
S/O CHANDRASHEKARAPPA K G
AGED ABOUT 44 YEARS
R/A @ 22, 1ST FLOOR,
2ND CROSS,
NAGARABHAVI ROAD,
BENGALURU - 560044.
(OWNER OF THE VEHICLE HYUNDAI ACCENT CAR
BEARING NO DL-03-AL-1019
NOW REGISTERED AS NO KA-03-MR-9548)
2. VIKAS SRIVASTAVA,
S/O LAKSHMI PRASAD SRIVASTAVA,
AGED ABOUT 41 YEARS,
R/A A-502, SALAPURIA SPLENDOR,

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by NANDINI R
Location:
HIGH COURT
OF
KARNATAKA



20, N R COLONY, AIRPORT ROAD,
BENGALURU - 560 048.
(POLICY HOLDER OF THE VEHICLE HYUNDAI
ACCENT CAR BEARING REG.NO. DL-03-AL-1019,
NOW REG, AS NO. KA-03-MR-9548)

3. THE MANAGER ,
TATA AIG GENERAL INSURANCE CO. LTD.,
5TH FLOOR, WEST ENTRANCE, KHANIJA BHAVAN,
RACE COURSE ROAD, BENGALURU-560 001.

...RESPONDENTS

(BY SRI JANARDHAN REDDY, ADVOCATE FOR R-3;
NOTICE TO R-1 & R-2 IS DISPENSED WITH V/O DATED
18.03.2021)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 03.12.2016 PASSED IN MVC
NO.157/2015 ON THE FILE OF THE SENIOR CIVIL JUDGE AND
XIX MACT, ITINERATE COURT, C.N.HALLI, PARTLY ALLOWING
THE CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

1. Heard the learned counsel appearing for the
appellant and learned counsel appearing for respondent
No.3.



2. Being aggrieved by the Judgment and Award in MVC 157/2015 by learned Senior Civil Judge and MACT, Chikkanayakanahally, dated 31.12.2016, the petitioner is before this Court seeking enhancement of the compensation.

3. The factual matrix of the case is that on 05.09.2013 at about 05.00 p. m., when the petitioner was proceeding on the left side of the road on a cycle, a car bearing No. KA.03.MR.9548 came in negligent manner from Tumkur side and dashed against the petitioner resulting in injuries to him. He was shifted to Government Hospital, Tiptur, where he was inpatient for about 20 days and he underwent surgeries for his fractures. It is contended that the petitioner was a coolie aged about 60 years at the time of the accident and earning Rs.8,000/- per month and due to the injuries suffered he is unable to do any work and as such, he sought adequate compensation from the owner and the insurer of the offending vehicle.



4. On service of notice, respondent Nos.1 and 2 appeared through their counsel. But they did not file any written statement. Respondent No. 3 -Insurance Company appeared and filed a written statement contending that the compensation claimed is highly exorbitant, imaginary and untenable and the terms and conditions of the policy were violated and therefore, the liability of respondent No. 3 may be absolved.

5. On the basis of the above contentions, appropriate issues were framed by the Tribunal and the petitioner was examined as PW1. The doctor who assessed the disability was examined as PW2 and Exhibit P1 to Exhibit P11 were marked. No evidence was led on behalf of the respondents. After hearing the arguments by both the sides, the Tribunal has awarded compensation of Rs.1,68,500/- as below:



Sl. No.	Description	Amount
1.	Loss of income and future income	Rs. 97,200/-
2.	Towards injury Nos. 1 to 6	Rs. 48,000/-
2.	Food, nourishment and attendant charges	Rs. 5,000/-
4.	Medical expenses	Rs. 18,300/-
	Total	Rs. 1,68,500/-

Aggrieved by the same, the petitioner is before this Court in appeal seeking enhancement of the compensation.

6. Learned counsel appearing for the appellant submits that the compensation awarded by the Tribunal under the head of loss of future earnings is on the lower side and that the notional income considered by the Tribunal is not in consonance with the wages fixed under the Minimum Wages Act. He submits that the compensation under the remaining heads also needs enhancement and therefore, reassessment of the quantum has to be made.



7. *Per contra*, learned counsel appearing for respondent No.3, submits that the compensation determined by the Tribunal is proper and correct and there is no need for any enhancement.

8. A careful perusal of the records would reveal that the petitioner, who is aged about 60 years had suffered anterior dislocation of right shoulder joint and fracture of the right trochanter bone of both the hip. Apart from that, he had also suffered multiple abrasions over the knee joint, both forearms and nose. The petitioner was admitted to the hospital and he was inpatient for about 18 days, during which time the dislocation of the right shoulder was reduced with a strapping and the fracture of the right trochanter was treated with skeletal traction for about 3 weeks.

9. PW2 who assessed the disability states that the petitioner has got disability of 41% and out of which 20% is for the right upper limb and 10% towards the



shortening of the right lower limb. The Tribunal assessed the functional disability of the petitioner at 20%.

10. The learned counsel appearing for the petitioner has submitted that the functional disability has to be taken on the higher side. On a reassessment of the evidence, it is clear that the petitioner was aged about 60 years and was a coolie. The fracture of the trochanter bone and the dislocation of the shoulder joint definitely results in disability to the petitioner and it escalates with the age factor which is 60 years.

11. Assessing these aspects, the functional disability of the petitioner needs to be considered and owing to the fact that he was a coolie aged about 60 years, it is just and proper to assess the functional disability at 20% as is done by the Tribunal and it does not require any enhancement.

12. So far as the notional income is concerned, the guidelines issued by the KSLSA for the purpose of



settlement of the disputes before the Lok adalat prescribe a notional income of Rs.8,000/- per month for the year 2013. In umpteen number of judgments, this Court has held that the guidelines issued by the KSLSA are in general conformity with the wages fixed under the Minimum Wages Act. Therefore, notional income is considered at Rs.8,000/- per month. Hence, the loss of future income due to disability is calculated as: $\text{Rs.8,000/-} \times 12 \times 9 \times 20\% = \text{Rs.1,72,800}$. As a consequence, taking the laid up period to be 4 months, the petitioner is also entitled for Rs.32,000/- ($\text{Rs.8,000} \times 4$).

13. The petitioner had suffered fracture of the trochanter bone and he was on traction for 3 weeks and also he had suffered dislocation of the shoulder joint. Considering this, a sum of Rs.50,000/- is awarded to him under the head of pain and suffering.

14. The petitioner was inpatient for about 18 days and therefore, a sum of Rs.20,000/- is awarded to him



under the head of food, conveyance, attendant charges and nourishment.

15. Considering the age of the petitioner, the compensation under the head of loss of amenities in life is awarded at Rs.40,000/-.

16. The Tribunal has awarded a sum of Rs.18,300/- towards the medical expenses, which do not require any reconsideration.

17. In the result, the petitioner is entitled for a total compensation of Rs.5,03,600/- under the following heads:

Sl. No.	Description	Amount
1.	Loss of future earnings due to disability	Rs.1,72,800/-
2.	Loss of income during laid up period	Rs. 32,000/-
3.	Pain and suffering	Rs. 50,000/-
4.	Food, conveyance and attendant charges	Rs. 20,000/-
5.	Loss of amenities in life	Rs. 40,000/-
6.	Medical expenses	Rs. 18,300/-
	Total	Rs.3,33,100/-
	Less: awarded by the Tribunal	<u>Rs.1,68,500/-</u>
	Enhancement	<u>Rs.1,64,600/-</u>

Thus, the petitioner is entitled for additional sum of Rs.1,64,600/- together with interest at 6% p.a.



18. For the aforesaid reasons, the appeal deserves to be allowed in part. Hence, the following:

ORDER

(i) The appeal is allowed in part.

(ii) The impugned judgment and award passed by the Tribunal is modified. The petitioner is entitled for a sum of Rs.1,64,600/- in addition to what has been awarded by the Tribunal along with interest at the rate of 6% p.a. from the date of petition till its deposit.

(iii) The rest of the terms and conditions ordered by the Tribunal remain unaltered.

(iv) Respondent No.3-Insurance Company is directed to deposit the compensation amount within four weeks from the date of this judgment.

Sd/-
(C M JOSHI)
JUDGE

tsn*

List No.: 1 SI No.: 41