



CNR: KAHC010266262022

NC: 2026:KHC:47465  
MFA No. 4349 of 2022

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

**DATED THIS THE 1<sup>ST</sup> DAY OF SEPTEMBER, 2026**

**BEFORE**

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

**MISCELLANEOUS FIRST APPEAL NO.4349 OF 2022(MV-I)**

**BETWEEN:**

MR. VENKATACHALAIK K  
@ VENKATACHALA K  
S/O KENCHALAIK  
AGED ABOUT 43 YEARS,  
R/AT NO.399, THEGALARA BEEDI  
SANTHE KODIHALL  
KODIHALLI POST  
MARASANDRA ROAD  
OPP. GOVT. HOSPITAL  
KODIHALLI,  
KANAKAPURA TALUK  
RAMANAGARA DISTRICT-562 119

...APPELLANT

(BY SRI. GIRIMALLAIK, ADVOCATE)

**AND:**

1. THE NEW INDIA ASSURANCE COMPANY LTD.,

Digitally signed by  
PANKAJA S  
Location: HIGH  
COURT OF  
KARNATAKA



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T.P HUB, 2<sup>ND</sup> FLOOR  
MAHALAKSHMI CHAMBERS  
NO.9/2, M.G ROAD  
BANGALORE -560 001  
BY ITS MANAGER

2. SRI BHARATH K  
S/O K.T KRISHNAIAH  
MAJOR  
(AGE OF R-2 NOT KNOWN TO APPELLANT)  
NO.1, 'B' BLOCK, T.R NAGAR  
POLICE QUARTERS  
BSK II STAGE  
BANGALORE -560 070

...RESPONDENTS

(BY SRI. SANMATHI E.I, ADVOCATE FOR R1,  
R2 NOTICE SERVED)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE  
JUDGMENT AND AWARD DT.28.03.2022 PASSED IN MVC  
NO.2817/2020 ON THE FILE OF THE XXIII ADDITIONAL SMALL  
CAUSES JUDGE, MACT, BENGALURU, (SCCH-25), DISMISSING  
THE CLAIM PETITION FOR COMPENSATION.

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



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CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

**ORAL JUDGMENT**

1. The claimant has preferred this appeal challenging the judgment and award dated 28.03.2022 passed in MVC No.2817/2020 by the M.A.C.T. Bengaluru (for short, 'the Tribunal'), whereby the Tribunal dismissed the claim petition filed by the claimant - appellant under Section 166 of the Motor Vehicles Act.

2. The brief facts which are necessary for disposal of this appeal are that on 09.03.2020 at about 06.50 p.m., the claimant was proceeding on the side of the road near Lingadagudi Temple, T. Gollahalli Village. At that time, a motorcycle bearing registration No.KA-04-HC-3689 driven by its rider in a rash and negligent manner, dashed against the claimant. Due to the impact, the claimant sustained multiple fractures on his right leg and also the other parts of the body. Immediately, he was shifted to Kanakapura Government Hospital wherein he was administered first-aid treatment and thereafter, shifted to Sanjay Gandhi Hospital, Bengaluru for higher treatment. Later, he filed a claim petition claiming



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compensation for the accidental injuries he sustained in the accident.

3. In order to prove the claim before the Tribunal, the appellant - claimant examined himself as PW.1 so also examined three other witnesses as PWs.2 to 4 and got marked 18 documents as Exs.P1 to P18. The insurance company also examined its officer as RW.1 and produced five documents as Exs.R1 to R5.

4. The Tribunal upon assessment of oral and documentary evidence, dismissed the claim petition filed by the appellant-claimant. Aggrieved by the same, the claimant preferred the instant appeal.

5. Heard the learned counsel for the respective parties.

6. Apart from urging several contentions, the learned counsel for the appellant - claimant primarily contended that the Tribunal grossly erred while dismissing the claim petition primarily relying on Ex.R2 i.e., the details of accident form wherein the patient detail is mentioned as driver and it is also stated that he was not wearing helmet at the time of accident.



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According to the learned counsel, the Tribunal totally brushed aside the MLC register of Sanjay Gandhi Hospital at Ex.P17 which clearly reveals that the accident was caused while the claimant was walking i.e., as a pedestrian hit by a two wheeler at Gollahalli road, Kodihalli. Further, Ex.P18 - the intimation to the Police sent by the Sanjay Gandhi Hospital also reveals the said aspect. Moreover, the claimant in order to substantiate the said documents examined PW.4 - Chief Medical Officer of Sanjay Gandhi Hospital, who was the author of Exs.P17 and P18. As such, he submitted that the Tribunal was not justified in discarding these primary documents. He further contended that PW.4 - doctor has specifically stated in his testimony that Ex.R2 might have written by the PG students. In such circumstances, no evidentiary value can be attached to Ex.R2. Hence, he submits that mere mentioning of driver in Ex.R2 itself is not sufficient to discard the entire case of the claimant, since in the accidental case, the standard of proof is required only to the touchstone of preponderance of probability and not the proof beyond reasonable doubt as held by the catena of judgment by the Hon'ble Apex Court and this Court, more



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particularly in the case of ***MANGLA RAM V. THE ORIENTAL INSURANCE COMPANY LIMITED - 2018 (5) SCC 656.***

7. He also contended that due to the accident the claimant sustained open right knee with distal femur fracture, Proximal tibia fracture, right 5th metatarsal fracture and right calcaneal fracture as stated by PW.2 - the treated doctor. Moreover, the said doctor has assessed the disability of the claimant at 60% to the right lower limb and 20% to the whole body. In such circumstances, he prays to grant the just compensation by allowing the appeal filed by the claimant.

8. *Per contra*, the learned counsel for the respondent insurance company by supporting the impugned judgment, contended that the Tribunal was justified in dismissing the claim petition on the ground that the claimant has failed to prove that the accident was caused while he was walking as a pedestrian on the road and hit by a motorcycle as claimed by him. By placing reliance on Ex.R2 - details of accident, he contended that the details of the accident register issued by the Sanjay Gandhi Hospital clearly reveals that the patient was a driver at the time of accident and was not wearing any helmet



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at the time of accident, as such, he sustained injuries. Thereafter, the claimant falsely claimed that the accident was caused while he was walking on the road and filed a frivolous claim petition for unlawful gain. According to him, this aspect of the matter has rightly been dealt with by the Tribunal.

9. He also contended that the doctors - PWs.2 and 4 admitted the contents of Ex.R2 in their evidence. In such circumstances, the Tribunal was justified in dismissing the claim petition. Notwithstanding the said contention, she also contended that the doctor has assessed the disability exorbitantly at 20% to the whole body. Accordingly, she prays to dismiss the appeal.

10. I have given my anxious consideration to the submissions made by the counsel for the respective parties so also perused the documents available on record.

11. As could be gathered from records, after the accident on 09.03.2020, the claimant - appellant was shifted to Sanjay Gandhi Hospital on the same day at about 09.57 p.m., before that the claimant was taken to Kanakapura Government



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Hospital for first-aid treatment. However, there are no records whatsoever placed by either of the parties before the Tribunal in respect of first-aid treatment given by the Kanakapura Government Hospital. On perusal of Ex.P17 - the MLC register of Sanjay Gandhi Hospital, the same reveals that on 09.03.2020 at 09.57 p.m. the injured was admitted in the said hospital and given the history of accident as the accident was occurred on 09.03.2020 at about 07.00 p.m. i.e., "pedestrian hit by two wheeler at Lingadagudi, Kanakapura, Gollahalli Road". After registering the said MLC, the Hospital Authority forwarded the intimation to the jurisdictional police on the next day i.e. 10.03.2020 in the morning hours and the history of accident mentioned in Ex.P18 also reveals as that of Ex.P17. Based on these two documents, the Kanakapura Police registered a case in Crime No.28/2020 dated 12.03.2020 against the rider of a motorcycle bearing registration No.KA-04-HC-3689. Subsequently, the said police investigated the case and laid charge sheet against the rider of the said motorcycle. Admittedly, the said charge sheet was not seriously challenged by the insurance company.



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12. Moreover, the author of Exs.P17 and P18 i.e., PW4 has been examined before the Tribunal. In his evidence, he has categorically stated that he has written the MLC based on the information provided by the claimant. Nevertheless, he stated that Ex.R2 might have written by the PG students. He also stated that after registering MLC, he has sent the intimation to the jurisdictional police. The insurance company has cross-examined this witness at length, nothing worthwhile has been elicited to discredit his testimony. No doubt, PWs.2 and 4 - the doctors have admitted the contents of Ex.R2 on confrontation to them in the witness box, that itself cannot be a ground to discredit their evidence in respect of Exs.P17 and P18. Moreover, Exs.P17 and P18 are not seriously disputed by the insurance company while cross-examining PW.4. Hence, when there are admitted documents available on record to substantiate that the accident was caused while the injured was walking on the road as a pedestrian, there is no reason to disbelieve the evidence of doctor, who registered the MLC and the investigation documents, solely relying on Ex.R2, which is part of case sheet, that too when an explanation is available on



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record that the said case sheet might have mentioned or written by the PG students. Admittedly, the insurance company has not examined any eye witness or produced any documents to disprove the accident as claimed by the claimant.

13. It is well settled that the proceedings under the Motor Vehicles Act are required to be adjudicated on the touchstone of preponderance of probabilities. The Hon'ble Apex Court, in ***MANGLA RAM V. THE ORIENTAL INSURANCE COMPANY LIMITED - 2018 (5) SCC 656***, has held that strict proof of an accident having been caused by a particular vehicle in a particular manner may not be possible for the claimants and that their case is required to be established on the touchstone of preponderance of probabilities. The standard of proof beyond reasonable doubt cannot be applied to such proceedings. Further, the Division Bench of this Court in a case of ***DIVISIONAL CONTROLLER MSRTC VS. BISMILLA AND OTHERS - 2024 ACJ 173***, in a similar set of facts and circumstances, held that a claim petition cannot be rejected solely relying on discharge summary which was written by a nurse in the hospital, when there are other documents and



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evidence available on record to prove the accident as claimed by the claimant-injured.

14. On careful examination of the impugned judgment, it is seen that the Tribunal has dismissed the claim petition by relying on the hyper technical reasons which is not at all called for in a case of motor vehicles accident as held by the Hon'ble Apex Court as well as this Court in catena of judgments time and again.

15. In such circumstances, I am of the considered view that the judgment of the Tribunal requires interference at the hands of this Court. Accordingly, the same is set aside. Consequently, the claim petition of the claimant has to be considered for granting compensation based on the evidence available on record.

**AS REGARDS THE QUANTUM OF COMPENSATION:**

16. According to the claimant, he was working as an electrician and was earning a sum of Rs.25,000/- per month. Since there is no credible documentary evidence to ascertain the actual monthly income, it would be appropriate and prudent



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to adopt the monthly income determined by Karnataka State Legal Services Authority, which, for the accident of the year 2020, would be Rs.14,500/-.

17. As discussed supra, the doctor who has examined the injured has issued wound certificate at Ex.P7 and deposed before the Tribunal that he has sustained 4 fractures and 60% disability to the particular limb and 20% to the whole body. Considering the evidence of PWs.2 and 4 - doctors and the medical records, I deem it just and appropriate to assess the disability at 20% i.e., 1/3rd of the disability caused to his particular limb.

18. Since the claimant has suffered 20% disability and is aged 41 years, in view of the judgment of the Division Bench of this Court in MFA No.103807/2016 c/w MFA No.103835/2016 and also by the Hon'ble Apex Court in the case of **SIDRAM vs. UNITED INDIA - 2023 (3) SCC 439**, 25% future prospects requires to be added to the said income, which would be **Rs.18,125/-** (14,500 + 25%).



19. As the claimant was aged 41 years, the multiplier of '14' would have to be applied. Consequently, the claimant would be entitled to a sum of **Rs.6,09,000/-** (18,125 x 12 x 14 x 20%) towards '*loss of future income*'.

20. Consequently, the claimant would be entitled to **Rs.43,500/-** (Rs.14,500 X 3 months) towards '*loss of income during the laid up period*', treating the laid up period as three months.

21. Considering the nature of injuries suffered by the claimant and length of hospitalization and its lasting effect, I deem it just and appropriate to award sum of **Rs.60,000/-** towards '*pain and suffering*' and **Rs.40,000/-** towards '*loss of amenities*'.

22. Since the claimant was hospitalized for a period of 36 days and was under nutritional diet. As such, a sum of **Rs.36,000/-** is awarded towards '*food and nourishment and attendant charges*'.



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23. Considering the medical bills produced by the claimant at Ex.P11 for sum of **Rs.50,097/-**, it is just and proper to award the same under the head of '*medical expenses*'.

24. Considering the nature of injuries suffered by the claimant and its further treatment in the future, I deem it just and appropriate to award a sum of **Rs.25,000/-** towards '*future medical expenses*'.

25. Consequently, the claimant would be entitled to the following compensation:

| Sl. No. | Compensation under different Heads         | Amount (Rs.)    |
|---------|--------------------------------------------|-----------------|
| 1.      | Loss of future income                      | 6,09,000        |
| 2.      | Loss of income during laid up period       | 43,500          |
| 3.      | Pain and sufferings                        | 60,000          |
| 4.      | Loss of amenities                          | 40,000          |
| 5.      | Food and nourishment and attendant charges | 36,000          |
| 6.      | Medical expenses                           | 50,097          |
| 7.      | Future medical expenses                    | 25,000          |
|         | <b>Total</b>                               | <b>8,63,597</b> |



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26. Thus, the claimant is held entitled to the total compensation of **Rs.8,63,597/-**, along with interest at the rate of 6% per annum from the date of petition till its realization.

27. 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.

The appeal is accordingly ***allowed in part.***

Registry is directed to send back the TCR to the concerned Tribunal.

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

CR  
List No.: 1 Sl No.: 4