



CNR: KAHC010275722025

NC: 2026:KHC:46017
MFA No. 3120 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR
MISCELLANEOUS FIRST APPEAL NO. 3120 OF 2025 (MV-I)

BETWEEN:

SRI MOHAMMED FEEZAN
S/O SHABBIR HUSSAIN,
AGED ABOUT 35 YEARS,
R/AT RICE MILL ROAD, ALDUR,
CHIKKAMAGALUR-577111
KARNATAKA.

...APPELLANT

(BY SRI. P. MAHADEVASWAMY, ADVOCATE)

AND:

1. THE MANAGER
THE NEW INDIA ASSURANCE CO. LTD,
T.P. CLAIMS HUB, NO-9/2,
2ND FLOOR, MAHALAKSHMI CHAMBERS,
M.G. ROAD, BENGALURU-560001.
2. GAYATHRI D.,
NO.502, ARASINAKUNTE,
DASANAPURA HOBLI,
NELAMANGALA TALUK,
BENGALURU RURAL-562123.

...RESPONDENTS

(BY SRI. VENKATESH KAMATH B.R., ADVOCATE FOR R1;
V/O DATED 09.09.2025 NOTICE TO R2 IS DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 09.01.2025 PASSED IN MVC

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



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NO. 5754/2023 ON THE FILE OF THE CHIEF JUDGE PRINCIPAL
MACT, COURT OF SMALL CAUSES, BENGALURU (SCCH-1),
PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

1. This appeal is filed by the claimant seeking enhancement of compensation awarded in the judgment and award dated 09.01.2025 passed in MVC No. 5754/2023 by the Chief Judge and Principal MACT, Court of Small Causes, Bengaluru (SCCH – 1).

2. Even though the appeal is listed for admission today, with the consent of the learned counsel appearing for appellant – claimant and learned counsel appearing for respondent No. 1 – Insurer it is taken up for disposal.

3. Appellant – claimant made a claim petition praying to award compensation for the injuries sustained by him in a road traffic accident that occurred on 09.08.2023 due to the rash and negligent driving by the



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driver of car bearing registration No. KA-52-N-8506. The Tribunal after recording evidence, appreciating the evidence on record, assessed the compensation and awarded compensation under different heads as under:

1.	Pain and suffering	Rs.80,000.00
2.	Medical expenses	Rs.4,98,362.00
3.	Attendant, conveyance and nourishment	Rs.20,000.00
4	Loss of income during treatment period	Rs.96,000.00
5.	Loss of amenities and future happiness	Rs.60,000.00
	TOTAL	Rs.7,54,362.00

4. The Tribunal has taken the contributory negligence on the part of the claimant at 50% and deducted 50% of the total compensation and awarded compensation of Rs.3,77,181/-. The Tribunal has also awarded interest at the rate of 6% p.a. from date of petition till the date of realization and directed respondent



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No. 1 – Insurer to deposit the said award amount with interest. Claimant challenging the contributory negligence taken by the Tribunal at 50% and seeking enhancement of the compensation awarded, has filed the present appeal.

5. Heard learned counsel for appellant – claimant and learned counsel for respondent No. 1 – Insurer.

6. Learned counsel for appellant would contend that even though there is disability the Tribunal has not awarded loss of future income due to disability. The Tribunal has taken contributory negligence on the part of the claimant at 50%. On perusal of FIR and chargesheet entire negligence is on the part of the driver of the car who overtook by entering the lane of two-wheeler and suddenly stopped his vehicle. Considering the injuries sustained, the compensation awarded towards pain and suffering and loss of amenities is on lower side. P.W.4 – the Doctor has stated that the claimant has sustained disability of 64% to the right lower limb and 30% to the



whole body. Since the disability is more than 20% claimant is entitled to future prospects at 40%. With this he prayed to allow the appeal.

7. Learned counsel for respondent No.1 - Insurer would contend that P.W.4 – Doctor who assessed the disability is not the treated Doctor. The Tribunal has rightly not awarded loss of future income due to disability since claimant had not produced any documents to show that there was decrease in his income due to the accident. The compensation awarded by the Tribunal under all heads is just and proper and there are no grounds for enhancement. With this he prayed for dismissal of the appeal.

8. Having heard the learned counsels, the Court has perused the judgment, award and trial Court records.

9. The accident occurred on 09.08.2023 and at the time of accident appellant – claimant was aged 33 years. Notional income fixed by the Karnataka State Legal



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Services Authority for the year 2023 is Rs.16,250/- and that income is to be taken as against Rs.16,000/- taken by the Tribunal.

10. Claimant had sustained the following injuries:

- a. Polytrauma – right femur mid shaft fracture – comminuted closed
- b. Left distal radius volar barton fracture with carpal subluxation
- c. Pelvic diastasis type 2
- d. Deep penetrating laceration wound over both inguinal regions and scrotum

11. Considering the said injuries claimant is entitled to pain and suffering in a sum of Rs.1,00,000/- as against Rs.80,000/- awarded by the Tribunal and loss of amenities in a sum of Rs.80,000/- as against Rs.60,000/- awarded by the Tribunal.

12. Considering the injuries sustained claimant had take rest for six months. The Tribunal has rightly awarded



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loss of income during laid up period for a period of six months. Now the income is taken at Rs.16,250/-, therefore, claimant is entitled to loss of income during laid up period in a sum of Rs.97,500/- (Rs.16,250 X 6).

13. Claimant was admitted in the hospital for 15 days. Considering the same, the compensation awarded by the Tribunal towards attendant, conveyance and nourishment is just and proper.

14. P.W.4 – Doctor who had examined the claimant and assessed the disability has stated that claimant had sustained disability to the right lower limb at 64% and 32% to the whole body. Even though claimant had sustained disability, the Tribunal has not awarded loss of future income due to disability only on the ground that no documents were produced to show the decrease in the income of the claimant. Said finding of the Tribunal that claimant is not entitled to loss of future income is not proper. Considering the evidence of P.W.4 – Doctor and



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injuries sustained by the claimant disability is to be taken at 21% (1/3 of 64%). Since disability is more than 20%, claimant is entitled to future prospects at 40% since he was aged 33 years as on the date of accident. Multiplier applicable is 16. In view of the same, loss of future income is calculated as under:

$$16,250 \times 12 = \text{Rs.}1,95,000/-$$

$$1,95,000 + 78,000 (40\%) = \text{Rs.}2,73,000/-$$

$$2,73,000 \times 16 \times 21\% = \text{Rs.}9,17,280/-$$

15. In view of the above, the claimant is entitled to compensation under various heads as under:

1.	Pain and suffering	Rs.1,00,000.00
2.	Medical expenses	Rs.4,98,362.00
3.	Attendant, conveyance and nourishment	Rs.20,000.00
4	Loss of income during treatment period	Rs.97,500.00
5.	Loss of amenities and future happiness	Rs.80,000.00
6.	Loss of future income	Rs.9,17,280.00
	TOTAL	Rs.17,13,142.00



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16. The Tribunal has held that charge sheet is filed against both the claimant and driver of the car and has assessed the contributory negligence on the part of the claimant at 50%.

17. Charge sheet is at Ex.P.4. A perusal of Ex.P.4 indicates that charge sheet is filed against both the claimant and driver of the car. Claimant has not challenged the charge sheet filed against him. Considering the same, the Tribunal has rightly held that claimant has contributed to the accident to an extent of 50% and rightly deducted 50% of the compensation awarded. Therefore, claimant is entitled to a sum of Rs.8,56,571/- (50% of Rs.17,13,142/-)

18. Considering the above aspects, the claimant is entitled to total compensation of Rs.8,56,571/- as against Rs.3,77,181/- with interest at the rate of 6% p.a. from the date of petition till realization. Consequently, the claimant is entitled to enhanced compensation of Rs.4,79,390/-



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with interest at the rate of 6% p.a. from the date of petition till realization. Respondent No.1 - Insurer is liable to pay the said enhanced compensation with interest.

19. In view of the above, the following:

ORDER

- i) Appeal is allowed in part.
- ii) Appellant - claimant is entitled to enhanced compensation of Rs.4,79,390/- with interest at the rate of 6% p.a. from the date of petition till realization.
- iii) Respondent No.1 - Insurer shall deposit the enhanced compensation with interest before the Tribunal within a period of six weeks from this day.
- iv) Appellant - claimant is entitled to release of entire enhanced compensation.

**Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE**

LRS
CT:SM/ List No.: 1 SI No.: 31