



CNR: KAHC010276442026

NC: 2026:KHC:48144
MFA No. 3026 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 3026 OF 2026
(MV-I)

BETWEEN:

SRI. SRINIVASA B.S.
S/O SHIVARAJAIAH,
AGED ABOUT 36 YEARS,
R/AT BEVOORU,
RAMANAGARA T AND D - 562 108.

...APPELLANT

(BY SRI. A S GIRISH., ADVOCATE)

AND:

1. SRI. MANOJ T. MADIVAL
S/O THIMMAPPA,
MAJOR IN AGE,
HEGGEKOPPA, SIDDAPUR,
(KANARA NORTH) UTTARA KANNADA,
KARNATAKA - 581 355.
2. THE NEW INDIA ASSURANCE CO. LTD.,
REGIONAL OFFICE,
NO.9/2, MAHALAKSHMI CHAMBERS,
M.G. ROAD,
BANGALORE - 560 001.
BY ITS MANAGER,

...RESPONDENTS

(BY SRI. A. RAVISHANKAR, ADVOCATE FOR R2;
VIDE ORDER DATED 09.06.2026, NOTICE TO R1 IS
DISPENSED WITH)

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



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THIS MFA IS FILED U/S.173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 04/11/2025 PASSED IN MVC NO.7155/2023 ON THE FILE OF THE XXIII ASCJ, MEMBER, MACT, BENGALURU (SCCH-25), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed by the claimant challenging the Judgment and Award dated 04.11.2025 passed in MVC No.7155/2023 by XXIII Additional Small Causes Judge and MACT, Bengaluru (SCCH-25).

2. Even though the matter is listed today for admission, with the consent of both the learned counsel for appellant and learned counsel for respondent No.2/insurer, the matter is taken up for disposal.

3. The appellant/claimant made a claim petition seeking for award of compensation for the injury sustained by him in a road traffic accident occurred on 03.09.2023 contending that the accident occurred due to rash and



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negligent driving by the driver of Bolero Goods vehicle bearing registration No.KA-27-B-2574.

4. The Tribunal recorded the evidence adduced by the parties and upon appreciating the evidence on record, assessed the compensation and awarded the compensation under various heads as under:

Sl. No.	Particulars	Amount
1.	Medical expenses	Rs. 25,299/-
2.	Loss of income during treatment	Rs. 1,066/-
3.	Attendant, food & Nourishment charges	Rs. 2,000/-
4.	Pain and suffering	Rs. 50,000/-
5.	Loss of future earning on account of disability	Rs. 1,53,600/-
	Total	Rs. 2,31,965/-

5. The Tribunal has held that the appellant/claimant has contributed to the accident and assessed his contributory negligence at 30% and awarded Rs.1,62,375/- (70% of Rs.2,31,965/-) with interest at the rate of 6% per annum from the date of petition till realisation and directed respondent No.2/insurer to pay



the compensation awarded with interest. The claimant challenged the contributory negligence attributed to him and seeking enhancement of compensation has filed the present appeal.

6. Heard the learned counsel for appellant and learned counsel for respondent No.2/insurer.

7. Learned counsel for the appellant would contend that, the claimant after alighting from the Bus was crossing the service road and at that time, the driver of Bolero Goods vehicle bearing registration No.KA-27-B-2574 came in high speed and in rash and negligent manner and dashed to the claimant. The claimant almost has crossed more than half of the service road that is seen in Ex.P3 - sketch. The charge sheet has been filed against the driver of Bolero Goods vehicle for rash and negligent driving. Therefore, the Tribunal has erred in attributing the contributory negligence to the claimant. He further submits that, the claimant has sustained five (05) simple



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injuries and one fracture i.e., right great toe and considering the same, the compensation awarded towards pain and sufferings is on lower side. The Tribunal has not awarded loss of amenities. The claimant has been admitted in hospital for two (02) days and considering the same and that the claimant's avocation is Tailoring, he has to take rest atleast for three (03) months and therefore, he is entitled to loss of income during laid up period for three (03) months.

8. Learned counsel for the appellant further 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. P.W.2 - Doctor who has examined the claimant and assessed his disability at 21% to the right lower limb and 7% to the whole body and the Tribunal has taken the disability at 5% and it is on lower side. With these, he prayed to allow the appeal.



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9. Learned counsel for respondent No.2/insurer would contend that, the claimant after alighting from the Bus was crossing the road and the accident has taken place in the middle of the road. The claimant ought to have been very careful in crossing the service road and considering the same, the Tribunal has rightly held that the claimant has contributed to the accident and assessed his contributory negligence at 30%. Considering the injuries sustained, the compensation awarded by the Tribunal towards pain and sufferings and other heads is just and proper and there are no grounds for enhancement. The Tribunal considering the evidence of P.W.2 - Doctor and fracture to the right great toe rightly taken the disability at 5%. With these, he prayed for dismissal of the appeal.

10. Having heard the learned counsel for appellant/claimant and learned counsel for respondent No.2/insurer, the Court has perused the impugned



Judgment, Award and a copy of Ex.P3 - Sketch furnished by the learned counsel for appellant.

11. The following points are raised for consideration:

- I) Whether the Tribunal is justified in attributing the contributory negligence on the part of the claimant?
- II) Whether there are any grounds for enhancement of compensation?

REASONS

12. **POINT NO.I :** The accident occurred on 03.09.2023 at about 10:45 a.m., the claimant after alighting from the Bus was crossing the service road and at that time, the Bolero Goods vehicle bearing registration No.KA-27-B-2574 came and dashed to the claimant. The charge sheet has been filed against the driver of Bolero Goods vehicle for rash and negligent driving. The accident occurred in day time i.e., at about 10:45 a.m. Ex.P3 - sketch does not indicate any tyre/brake marks on the road. Considering the said aspect, the entire rash and



negligent driving is on the part of the driver of Bolero Goods vehicle. Therefore, the Tribunal has erred in attributing the contributory negligence on the part of the deceased. Accordingly, **POINT NO.I** is answered.

13. **POINT NO.II** : The claimant has sustained the following injuries:

- i) Laceration present over right great toe
- ii) Abrasion present over inner part of right foot
- iii) Abrasion present over right 2nd toe
- iv) Abrasion present over right 3rd toe
- v) Abrasion present over front part of right sole
- vi) X-ray shows fracture of distal part of distal phalynx of right great toe

Out of the said six (06) injuries, injury No.vi is fracture to the right great toe and other five (05) injuries are simple injuries. Considering the said injuries, the compensation awarded towards pain and sufferings in a sum of Rs.50,000/- is just and proper. The Tribunal has not awarded loss of amenities. Therefore, the claimant is entitled to loss of amenities in a sum of Rs.30,000/-.



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14. The avocation of the claimant is Tailoring and to run the tailoring machine, he has to use his legs and the fracture to the right great toe affects his function as a Tailor and therefore, he is entitled to loss of income during laid up period for three (03) months. 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. Therefore, the claimant is entitled to loss of income during laid up period in a sum of Rs.48,750/- (Rs.16,250/- X 03 months).

15. P.W.2 - Doctor who has examined the claimant and assessed his disability and stated that the claimant is having disability at 21% to the right lower limb and 7% to the whole body. The Tribunal has considered the said evidence of P.W.2 - Doctor and fracture to the right great tow has rightly taken the disability at 5% to the whole body. The Tribunal has rightly applied multiplier '16' since



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the claimant was aged thirty four (34) years. In view of the same, loss of future income is calculated as under:

$$\text{Rs.}16,250/- \times 12 \times 16 \times 5\% = \text{Rs.}1,56,000/-.$$

Accordingly, **POINT NO.II** is answered.

16. The Tribunal has rightly awarded medical expenses and attendant, conveyance, food and nourishment charges.

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

Sl. No.	Particulars	Amount
1.	Medical expenses	Rs. 25,299/-
2.	Loss of income during laid up period	Rs. 48,750/-
3.	Attendant, food & Nourishment charges	Rs. 2,000/-
4.	Pain and suffering	Rs. 50,000/-
5.	Loss of future income	Rs. 1,56,000/-
6.	Loss of amenities	Rs. 30,000/-
	Total	Rs. Rs.3,12,049/-



18. The claimant is entitled to total compensation of Rs.3,12,049/- as against Rs.1,62,375/- awarded by the Tribunal with interest.

19. Consequently, the claimant is entitled to enhanced compensation of Rs.1,49,674/- (Rs.3,12,049/- - Rs.1,62,375/-) with interest at the rate of 6% per annum from the date of petition till realisation.

20. Respondent No.2/insurer is liable to pay the said enhanced compensation amount with interest.

21. In view of the above, the following:

ORDER

- i) *Miscellaneous First Appeal is **allowed-in-part.***
- ii) *The appellant/claimant is entitled to enhanced compensation of Rs.1,49,674/- with interest at the rate of 6% per annum from the date of petition till realisation.*



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- iii) *The contributory negligence attributed to the appellant/claimant at 30% is **set-aside.***
- iii) *Respondent No.2/insurer shall deposit the enhanced compensation amount with interest before the Tribunal within a period of six weeks from this day.*
- iv) *The appellant/claimant is entitled to release of entire enhanced compensation with interest.*

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

KLV
List No.: 1 Sl No.: 21