



NC: 2026:KHC:49020
MFA No. 6013 of 2019

CNR: KAHC010279732019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.6013 OF 2019(MV-I)

BETWEEN:

SAMIULLA SHARIFF
S/O LATE MOHAMMED AMEER
AGED ABOUT 64 YEARS
R/A D.NO.109, II STAGE
KESARE, NEAR RS NAIDU NAGAR
MYSURU - 570 007.

...APPELLANT

(BY SMT. SUMA KEDILAYA, ADVOCATE FOR
SRI PADMANABHA KEDILAYA V., ADVOCATE)

AND:

1. LAKSHMAN RAO
S/O LATE VENKOBA RAO
AGED ABOUT 69 YEARS
R/O D.NO.32,
'KAMADHENU NILAYA'
III CROSS, I MAIN
SHIVANANDA NAGAR
MOODALA PALYA
BENGALURU - 560 072.
2. THE MANAGER
BAJAJ ALLIANZ GENERAL
INSURANCE COMPANY LIMITED,
NO.363, SRI HARI COMPLEX
SEETHAVILASA ROAD
MYSURU -570 024.

...RESPONDENTS

(BY SRI ASHOKA H., ADVOCATE AND
SRI B.PRADEEP, ADVOCATE FOR R2;
V/O DATED 18.09.2024 NOTICE TO R1 IS H/S)

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



NC: 2026:KHC:49020
MFA No. 6013 of 2019

CNR: KAHC010279732019

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 12.07.2018 PASSED IN MVC NO. 388/2015 ON THE FILE OF THE PRINCIPAL JUDGE, COURT OF SMALL CAUSES, AS A PRESIDING OFFICER, MOTOR ACCIDENTS CLAIMS TRIBUNAL, MYSURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 12.07.2018 passed by Prl. Judge, Court of Small Causes & Presiding Officer, MACT, Mysuru in MVC no.388/2015, this appeal is by claimant seeking enhancement of compensation.

2. Brief facts leading to this appeal, as stated, are that a claim petition was filed under Section 166 of Motor Vehicles Act, 1988 (**MV Act**) stating that at 2:45 p.m. on 09.08.2014, when claimant was riding motorcycle no.KA-55/H-8375 on Mysore-Bangalore road, driver of Car bearing registration no.KA-02/MC-7638 drove it in rash and negligent manner and dashed against motorcycle causing accident. Claimant sustained grievous injuries and despite treatment at St.Joseph



CNR: KAHC010279732019

Hospital, Mysore, he did not recovery fully and sustained loss of earning capacity. Therefore, he filed claim petition under Section 166 of Motor Vehicles Act, 1988.

3. On appearance, only insurer filed objections denying age, occupation and income as well as disability sustained and alleging violation of policy conditions.

4. Based on pleadings, Tribunal framed following

ISSUES:

- 1. Whether the petitioner prove that he sustained injuries in a road traffic accident arising out of use of vehicle bearing registration no.KA-02-MC-7638, occurred on 09.08.2014 at about 2.45 p.m. due to the actionable negligence of its driver?*
- 2. Whether the petitioner is entitled for any compensation? If so, at what quantum?*
- 3. What order or award?*

5. To establish contentions, claimant examined himself and Dr.Girish Chandra R. as PWs.1 and 2 and got marked Exs.P1 to P-14. Insurer examined its official and another as RWs.1 and 2 and got marked Exs.R1 to R-9.

6. On consideration, tribunal answered issue no.1 in affirmative, issue no.2 partly in affirmative and issue no.3 by assessing compensation of Rs.2,24,540/- with interest at 8%



NC: 2026:KHC:49020
MFA No. 6013 of 2019

CNR: KAHC010279732019

per annum, dismissed claim petition against insurer and holding owner liable to pay it. Aggrieved thereby this appeal is filed.

7. Smt.Suma Kedilaya, learned counsel for claimant - appellant submitted only ground on which tribunal discharged liability of insurer was that driving licence of driver of car was valid upto 15.09.2013 was got renewed on 17.08.2014 and was thus, not valid as on date of accident i.e., 09.08.2014. It was submitted that Hon'ble Supreme Court in ***Rama Bai v. M/s. Amit Minerals*** reported in **2025 SCC OnLine SC 2067**, had even in case of subsequent renewal of driving licence held insurer liable to pay compensation to claimant and thereafter recover it from insured. On said ground, sought for modification of liability.

8. On quantum, it was submitted that in accident claimant had sustained fractures of 3rd, 4th and 5th ribs in addition to dislocation of left AC joint. However, tribunal awarded inadequate amount of Rs.30,000/- towards 'pain and suffering'. She also contended that compensation awarded under other heads were inadequate and no compensation



CNR: KAHC010279732019

awarded towards 'loss of amenities'. On above ground, sought for enhancement.

9. On other hand, Sri Ashok H., learned counsel for Sri B.Pradeep, advocate for insurer, opposed appeal. It was submitted, there was no dispute about driving licence of driver of insured Car not being valid and effective as on date of accident. In view of same, finding of tribunal on liability was justified. Even on quantum, it was submitted tribunal had assessed just compensation and did not call for interference.

10. Heard learned counsel, perused impugned award and record.

11. From above points that arise for consideration are:

- i. Whether tribunal was justified in absolving liability of insurer to pay compensation to claimant-third party?*
- ii. Whether claimant is entitled for enhancement of compensation as prayed?*

Point no.(i):

12. There is no dispute about driver of insured vehicle having obtained driving licence to drive LMV (NT) vehicle and



CNR: KAHC010279732019

about its expiry prior to date of accident as well as about its renewal after accident.

13. Hon'ble Supreme Court in case of **Reliance General Insurance Co. Ltd. v. Om Parkash**, reported in **2026 SCC OnLine SC 1445**:

*"18. Following the dictum above, the appeal is allowed. The appellant insurer cannot be held liable to make good the award. The final burden shall be on both the employer and the driver. In the order issuing notice, we had directed that the amount as computed be released in favour of the claimants. **In view of the above discussion, we hold the principle of 'pay and recover' to be applicable in this case.** The appellant-insurer shall therefore be at liberty to take steps in accordance with law."*

14. Similar view is expressed in **Rama Bai's** case (supra). In view of above, point no.(i) is answered partly in affirmative.

Point no.(ii):

15. On quantum also there is no dispute about claimant aged 63 years working as Security Guard sustaining fractures of three ribs and dislocation of AC joint, assessed by PW.2 to have resulted in disability of 20.98% to whole body. In absence of specific evidence, income was determined at Rs.9,000/- per



CNR: KAHC010279732019

month and taking loss of earning capacity at 9% awarded Rs.68,040/- towards loss of future income, Rs.95,000/- towards medical and incidental expenses, Rs.31,500/- towards loss of income during laid-up period and Rs.30,000/- towards pain and suffering.

16. Considering nature of injuries sustained and avocation of claimant, assessment of monthly income as well as disability sustained cannot be stated to be grossly inadequate to invite interference. Normally fractures heal within three months. Therefore, compensation awarded towards loss of income during laid-up period is sustained. Even compensation awarded towards medical expenses towards full reimbursement would also not warrant interference. In facts and circumstances of this case, it is found non-award of any amount towards loss of amenities and compensation awarded towards pain and suffering being inadequate would warrant interference. Taking note of fact that claimant sustained three fractures and one dislocation, it is found fit to award Rs.50,000/- as against Rs.30,000/-. Likewise, it is found appropriate to award Rs.25,000/- towards loss of amenities. Thus, there is



CNR: KAHC010279732019

enhancement of compensation by **Rs.45,000/-**. Point no.(ii) is answered partly in affirmative.

17. Consequently, following:

ORDER

Appeal is ***allowed in part***; judgment and award dated 12.07.2018 passed by Prl. Judge, Court of Small Causes & Presiding Officer, MACT, Mysuru in MVC no.388/2015 is modified by enhancing compensation by additional Rs.45,000/- with 8% interest per annum from date of accident till deposit, excluding period of 231 days in filing this appeal and holding insurer liable to pay entire compensation to claimant in first instance, with liberty to recover entire compensation from insured without recourse to separate proceedings.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

HNM
List No.: 1 Sl No.: 21