



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

MISCELLANEOUS FIRST APPEAL NO. 3658 OF 2017 (MV-I)

C/W

MFA CROSS OBJECTION NO. 34 OF 2020 (MV-I)

IN MFA No. 3658/2017

BETWEEN:

NATIONAL INSURANCE COMPANY LTD
KUNDAPURA BRANCH OFFICE,
SRI SAI CENTRE, 2ND FLOOR,
Y.M. SHETTY ROAD,
KUNDAPURA
REPRESENTED BY ITS BRANCH MANAGER

...APPELLANT

(BY SMT. RENUKA H R.,ADVOCATE)

AND:

1. ANNAPPA SHEREGAR
S/O RAMAKRISHNA SHEREGAR,
AGED ABOUT 52 YEARS,
R/O THEGGARSE VILLAGE,
KUNDAPURA TALUK,
UDUPI DISTRICT 576 201.

2. SIYAB
S/O ABDUL RAZAK, ADULT,
R/AT BADAHERE,
NAVUNDA POST & VILLAGE,
KUNDAPURA TALUK
UDUPI DISTRICT 576 201.

...RESPONDENTS

(BY SRI.NAGARAJ HEGDE.,ADVOCATE FOR R1
R2 SERVED)

Digitally
signed by
NIRMALA
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Location:
HIGH
COURT OF
KARNATAKA



THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 05.01.2017 PASSED IN MVC NO.255/2015 ON THE FILE OF THE SENIOR CIVIL JUDGE AND MEMBER ADDITIONAL MOTOR VEHICLE ACCIDENT CLAIMS TRIBUNAL AT KUNDAPURA, AWARDED COMPENSATION OF RS.3,67,633/- WITH INTEREST AT THE RATE OF 6% P.A. ON RS.3,55,633/- (EXCLUDING FUTURE MEDICAL EXPENSES) FROM THE DATE OF PETITION TILL THE DATE OF DEPOSIT.

IN MFA.CROB NO. 34/2020

BETWEEN:

SRI ANNAPPA SHEREGAR
S/O RAMAKRISHNA SHEREGAR
AGED ABOUT 54 YEARS,
R/O THEGGARSE VILLAGE,
KUNDAPURA TALUK
UDUPI DISTRICT-576 201

... CROSS OBJECTOR

(BY SRI. NAGARAJA HEGDE.,ADVOCATE)

AND:

1. SRI SIYAB
S/O ABDUL RAZAK
AGE MAJOR
R/O NAVUNDA POST AND VILLAGE,
KUNDAPURA TALUK
UDUPI DISTRICT-576201
2. THE NATIONAL INSURANCE COMPANY LTD.,
BRANCH OFFICE KUNDAPURA
SRI SAI CENTRE,
2ND FLOOR, Y M SHETTY ROAD,
KUNDAPURA -576201
REP BY ITS BRANCH MANAGER

...RESPONDENTS

(BY SMT H R RENUKA.,ADVOCATE FOR R2
NOTICE TO R1 IS DISPENSED WITH)

THIS MFA CROB IN MFA 3658/2017 IS FILED U/O.22 OF CPC R/W SEC.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.05.01.2017 PASSED IN MVC NO.255/2015 ON THE FILE OF THE SENIOR CIVIL JUDGE, MEMBER, MACT, KUNDAPURA,



PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

The above appeal is filed by the insurer assailing the judgment and award dated 5.01.2017 passed in MVC No.255/2015 by the Court of the Senior Civil Judge and Additional Motor Vehicle Accident Claims Tribunal, Kundapura¹, contending, inter alia, that the insured driver did not have a valid and effective driving license to drive the insured vehicle as on the date of the accident and hence the insurer is required to be exonerated from its liability to pay the compensation awarded. It is contended that the disability assessed by the Tribunal is excessive. The cross objection is filed by the claimant seeking for enhancement of compensation.

2. Vide the impugned judgment and award, the Tribunal has partly allowed the claim petition and awarded a compensation of ₹3,67,633/-, together with interest at 6% p.a on ₹3,55,633/-

¹ Hereinafter referred to as the 'Tribunal'



from the date of petition till the date of deposit. It was further ordered that the owner and insurer are jointly and severally liable to pay the compensation awarded.

3. Heard submissions of the learned counsel Smt. HR Renuka for the insurer and Sri. Nagaraja Hegde for the claimant.

4. The insurer is that the insured vehicle is an autorickshaw which is a Light motor vehicle (LMV) whose unladen weight is 350kgs. The driver of the insured vehicle possessed a license to drive a non-transport vehicle from 25.01.2011 to 24.01.2031. The Tribunal held that the insured vehicle, being an autorickshaw, is a LMV and hence the driver held a valid and effective driving license.

5. The Supreme Court in the case of **Mukund Dewangan v. Oriental Insurance Company Ltd.**,² has held as under:

"46. xxxxx

(i) 'Light motor vehicle' as defined in section 2(21) of the Act would include a transport vehicle as per the weight

² [2017 SC 3668]



prescribed in section 2(21) read with section 2(15) and 2(48). Such transport vehicles are not excluded from the definition of the light motor vehicle by virtue of Amendment Act No.54/1994."

6. In view of the judgment of the Supreme Court in ***Mukund Dewangan²***, the contention regarding liability put forth by the insurer does not merit consideration and is accordingly rejected.

7. With regard to the quantum of compensation, it is forthcoming that the claimant was aged 50 years as on the date of the accident, i.e., as on 22.01.2015. The claimant was stated to be doing centering work for construction. However, no documents have been produced to demonstrate his income. The Tribunal has assessed the income of the claimant as ₹7,000 per month. However, the notional income of the claimant, having regard to the date of the accident, is reassessed as ₹9,000 per month.

8. The claimant sustained comminuted fracture of both bones of the right toes with bone loss; right hand fifth finger loss with fracture of PPX; and that fracture of right ulna and radius bone. The claimant has examined a Doctor (PW-2),



who has assessed the disability of the claimant as 30% to the right upper limb. The Tribunal has assessed the disability as 18%. The claimant was treated as an inpatient from 22.01.2015 to 30.01.2015 and once again on 3.8.2015 to 11.08.2015 i.e., for a total period of 18 days. Having regard to the fact that the claimant has sustained fracture of both bones of the right forearm and having regard to the nature of avocation of the claimant, it is just and proper that the disability of the claimant be reassessed as 15%.

9. Having regard to the aforementioned, the compensation is reassessed as follows:

9.1 Keeping in mind the nature of injuries sustained and the period of treatment, the compensation awarded by the Tribunal towards pain and suffering as well as future medical expenses is not interfered with;

9.2 It has been noticed that the claimant has produced medical bills in a sum of ₹44,073/-. Accordingly, medical expenses is re-assessed in a sum of ₹45,000/-;



9.3 Having regard to the nature of injuries sustained and period of treatment, the laid-up period has been taken by the Tribunal as 6 months and accordingly the loss of income during laid up period is reassessed as $(₹9000/- \times 6) = ₹54,000/-$ as against ₹42,000/- awarded by the Tribunal;

9.4 Having regard to the period of treatment, the compensation towards food, nourishment, attendant charges and conveyance is reassessed as ₹18,000/-;

9.5 Keeping in mind the nature of injuries and the resultant disability, the loss of amenities is reassessed as ₹40,000/- as against ₹20,000/- awarded by the Tribunal;

9.6 The compensation towards disability/loss of earning capacity is reassessed as $(₹9000/- \times 12 \times 13 \times 15\%) ₹2,10,600/-$ as against ₹1,96,560/- awarded by Tribunal.

10. In view of the aforementioned, the compensation is reassessed as follows:



SI No	Heads	Amount awarded by the Tribunal (₹)	Amount awarded by this Court (₹)
1	Pain and sufferings	45,000.00	45,000
2	Loss of earning during the laid-up period	42,000.00	54,000
3	Loss of future earning capacity	1,96,560.00	2,10,600
4	Medical expenses	52,073.00	45,000
5	Loss of amenities	20,000.00	40,000
6	Future medical expenses	12,000.00	12,000
7	Food & nourishment charges, conveyance charges and attendant charges		18,000
	Total	3,67,633.00	4,24,600

11. Hence, the claimant is entitled for enhanced compensation of (₹4,24,600/- - ₹3,67,633/-)= ₹56,967/- rounded of as ₹57,000/-.

12. Taking judicial notice on interest awarded towards fixed deposits, the interest to be paid at 7% on the enhanced amount.

13. Having regard to the order dated 19.11.2024 in MFA. CROB 34/2020, the claimant is not entitled to interest for the delay period of 751 days.



14. In view of the aforementioned, the following:

ORDER

- i) MFA No.3658/2017 is dismissed;
- ii) MFA Crob.34/2020 is allowed in part;
- iii) The judgment and award of the Tribunal dated 5.01.2017 passed in MVC No.255/2015 by the Court of the Senior Civil Judge and Additional Motor Vehicle Accident Claims Tribunal, Kundapura is modified only to the extent stated herein. In all other respects, the judgment and award of the Tribunal remains unaltered;
- iv) The claimant is entitled to enhanced compensation of ₹57,000/- with interest at 7% per annum from the date of petition till its realization in addition to the compensation awarded by the Tribunal;
- v) The appellant - insurer shall deposit the enhanced compensation together with accrued interest within a period of six weeks from the date of receipt of a copy of this judgment;



- vi) After deposit, the entire enhanced compensation with accrued interest shall be disbursed to the claimant;
- vii) The amount deposited by the appellant - insurer be transmitted to the Tribunal for disbursement to claimant;
- viii) The Registry to draw the modified award accordingly;
- ix) The Records be transmitted to the Tribunal forthwith;
- x) No costs.

Sd/-
(C.M. POONACHA)
JUDGE