



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.3905 OF 2023(MV-I)

BETWEEN:

SHOWKATH ALI KHAN
S/O MAHBOOBA KHAN
AGED ABOUT 37 YEARS
NO.48, 16TH WARD,
NERALEKERE VILLAGE,
RAMANAGARA TOWN & DISTRICT

...APPELLANT

(BY SRI. K.T.MADHU, ADVOCATE)

AND:

THE MANAGING DIRECTOR
K.S.R.T.C
SHANTHINAGAR, K.H ROAD
BANGALORE-560 027
(REP BY THEIR LAW OFFICER)

...RESPONDENT

(BY SRI. DABALI FAKKIRAPPA SHIDRAMAPPA, ADVOCATE)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 17.03.2023 PASSED IN MVC
NO.1520/2021 ON THE FILE OF THE XIII ADDITIONAL SMALL
CAUSES JUDGE, ACMM, COURT OF SMALL CAUSES, MEMBER,
MACT-15, BENGALURU SCCH-15, PARTLY ALLOWING THE

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by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



CLAIM PETITION FOR COMPENSATION SEEKING
ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

The claimant, not being satisfied with the compensation awarded in judgment and award dated 17.03.2023 in M.V.C.No.1520/2021 on the file of XIII Addl. Small Causes and ACMM and Addl. MACT., Bengaluru, (SCCH-15), is before this Court praying for enhancement of compensation.

2. The brief facts of the case are that the claimant filed claim petition under Section 166 of the Motor Vehicles Act, claiming compensation for the accidental injuries that he suffered in a road traffic accident occurred on 20.02.2021 involving motorcycle bearing Reg.No.KA-05/HT-6357 and KSRTC bus bearing Reg.No.KA-11/F-0384. It is stated that the claimant sustained grievous injuries, which resulted in amputation of left leg above knee. It is further claimed that the



injured-claimant was doing tailoring work and earning a sum of Rs.25,000/- per month.

3. On service of notice, the respondent - KSRTC appeared and filed its statement *inter alia* denying the claim petition averments. Further, it is denied the allegation that the accident occurred solely due to rash and negligent driving of the driver of the offending KSRTC bus.

4. On behalf of claimant-injured, he himself examined as PW.1 and marked 14 documents as Exs.P1 to P14. Further, he examined PWs.2 and 3 and got marked 6 documents as Exs.P15 to P20. On behalf of respondent-KSRTC, the driver of the bus was examined as RW.1 and marked 6 documents as Exs.R1 to R6.

5. The Tribunal, on appreciation of the material on record, awarded total compensation of Rs.21,22,000/- along with 6% interest per annum from the date of petition till realization on the following heads:



Sl.No.	Compensation under different Heads	As awarded by the Tribunal (Rs.)
1.	Pain, shock and suffering	1,00,000
2.	Loss of amenities	1,00,000
3.	Loss of income during the laid up period	75,000
4.	Attendant's charges, Extra diet and conveyance	45,000
5.	Medical expenses	64,500
6.	Compensation towards Prosthesis	50,000
7.	Loss of Future Income	16,87,500
Total		21,22,000

6. While awarding the above compensation, the Tribunal assessed the notional income of the claimant at Rs.15,000/- per month and added 25% of the income towards future prospects and assessed the whole body disability and functional disability at 50%. The claimant-appellant, not being satisfied with the quantum of compensation, is before this Court in this appeal.

7. Heard learned counsel Sri K.T. Madhu, for the appellant and learned counsel Sri Dabali Fakkirappa Shidramappa, for the respondent-KSRTC. Perused the entire appeal papers and the Trial Court records.

8. Learned counsel for the appellant-claimant would submit that the Tribunal committed grave error in assessing the



whole body disability as well as functional disability of the appellant-claimant, who has suffered amputation of left leg above knee and closed fracture of the left clavicle. It is his contention that the claimant-appellant was a tailor and by virtue of amputation of his left leg, he is not in a position to carry out the work, which he was carrying out before the accident. Therefore, he submits that the Tribunal ought to have assessed the whole body and functional disability at more than 50%. Further, learned counsel would submit that the appellant-claimant is aged 40 years and the Tribunal ought to have taken future prospects at 40% and not 25%.

9. Learned counsel for the appellant would submit that the Tribunal has awarded compensation towards artificial limb only to the extent of Rs.50,000/- and he further submits that the Doctor has deposed that the artificial limb would cost around Rs.2,00,000/- and the same shall have to be replaced every 5 years. Thus, he would pray to allow the appeal.

10. *Per contra*, learned counsel Sri Dabali F.S., would submit that the Tribunal has awarded just compensation, which needs no interference. Further, he would submit that the



appellant has not placed any material on record to prove his avocation of tailoring and as such, the Tribunal is justified in assessing the functional disability at 50%. Further, learned counsel would submit that the Tribunal is also justified in adding 25% of the assessed income towards future prospects, since the claimant-injured has already attained 40 years.

11. Learned counsel would submit that, in terms of the decision of the Hon'ble Apex Court in ***NATIONAL INSURNACE COMPANY LTD., vs. PRANAY SETHI*** reported in ***2017 ACJ 2700 (SC)***, it is made clear that 40% of the assessed income could be added where the injured or deceased is below 40 years and if the injured or deceased is above 40 years, 25% is to be added towards future prospects. With regard to artificial limb, he would submit that the Doctor has not deposed anything with regard to change of artificial limb every 5 years. Thus, he would pray for dismissal of the appeal.

12. Having heard the learned counsel for the parties and on perusal of the entire appeal papers including the Tribunal records, the following points would arise for consideration:



- i. Whether the whole body or functional disability assessed by the Tribunal needs interference?*
- ii. Whether the Tribunal is justified in adding 25% of the assessed income towards future prospects?*
- iii. Whether the claimant would be entitled for enhanced compensation on the head of artificial limb?*

The answer to all three points would be in the affirmative for the following reasons:

13. The accident that occurred on 20.02.2021 involving motorcycle bearing Reg.No.KA-05/HT-6357 and KSRTC bus bearing Reg.No.KA-11/F-0384 and the accidental injuries sustained by the claimant in the said road traffic accident are not in dispute in this appeal. The claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, is before this Court claiming enhanced compensation. In terms of Ex.P6, the claimant has suffered following injuries:

- i. Extensive (Degloving injury) skin avulsion exposing muscles, tenderness and vessels from upper thigh down to ankle on left leg with deep wide wound on left leg.*
- ii. Deformity of left lower leg and left ankle with suspects fracture of both bones.*



- iii. Lacerated wound of 10 x 4cm on left for dorsal upper.

14. The Doctor-PW.3, who was examined on behalf of claimant-appellant, has deposed that the claimant has suffered 80% disability to left lower limb and whole body disability at 40%. However, the Tribunal has come to the conclusion that the claimant-appellant has suffered functional disability at 50%. The Tribunal has fell into error while assessing the functional disability of claimant-appellant at 50%. It is claimed by the claimant-appellant that he was doing tailoring work prior to the accident, that due to amputation of left leg above knee, he is not in a position to do the same work i.e., tailoring work. Though the appellant has not placed any material on record to establish his avocation, however, his statement is not in much dispute and the respondent-KSRTC has not elicited any adverse inference in his cross-examination. When it is claimed by the appellant-claimant that he was doing tailoring business, the amputation of left leg above knee would definitely come in the way of his working as tailor. Therefore, taking into the present fact and circumstances, we deem it appropriate to enhance the functional disability from 50% to 70%.



15. Learned counsel for the appellant-claimant stated that the Tribunal has committed error in adding only 25% of the assessed income towards future prospects instead of 40%. We have gone through the decision of the Hon'ble Apex Court in **PRANAY SETHI** (supra). The above decision makes it clear that 40% of the assessed income could be added if the injured or deceased is below 40 years and if the injured or deceased is above 40 years, 25% of the assessed income has to be added towards future prospects. In the instant case, as submitted by the learned counsel for the appellant-claimant, the appellant-claimant is aged above 40 years and therefore, the Tribunal is justified in adding 25% of the assessed income towards future prospects. Thus, the claimant would be entitled to **Rs.23,62,500/-** (Rs.18,750 X 12 X 15 X 70%) towards loss of future income as against Rs.16,87,500/- awarded by the Tribunal.

16. The Tribunal has granted only Rs.50,000/- towards artificial limb. PW.3-Doctor in his evidence has deposed that the approximate cost of artificial limb would be Rs.2,00,000/- and it also needs regular maintenance of prosthesis, which



costs around Rs.30,000/- annually. The Hon'ble Apex Court in a recent decision of **TATA AIG GENERAL INS. CO. LTD. vs. SURAJ KUMAR AND OTHERS** reported in **2025 ACJ 1314** has come to the conclusion that the prosthesis limb would have to be changed every 5 years and while awarding compensation, it has taken the life expectancy at 70 years and awarded compensation on the head of artificial limb. In the instant case, the claimant is aged 40 years and taking note of life expectancy at 70 years, we consider it appropriate to award a total lumpsum of Rs.10,00,000/- towards artificial limb. However, he would not be entitled for interest on the said compensation. The compensation awarded on the other heads are just and proper and needs no interference.

17. In modification of award of the Tribunal, the claimant would be entitled to the following compensation:

Sl. No.	Compensation under different Heads	As awarded by the Tribunal (Rs.)	As awarded by this Court (Rs.)
1.	Pain, shock and suffering	1,00,000	1,00,000
2.	Loss of amenities	1,00,000	1,00,000
3.	Loss of income during the laid up period	75,000	75,000
4.	Attendant charges, Extra diet and conveyance	45,000	45,000



5.	Medical expenses	64,500	64,500
6.	Compensation towards Prosthesis	50,000	10,00,000
7.	Loss of Future Income	16,87,500	23,62,500
	Total	21,22,000	37,47,000

18. Thus, the claimant is held entitled to the total compensation of **Rs.37,47,000/-** as against Rs.21,22,000/- awarded by the Tribunal along with interest at the rate of 6% per annum from the date of petition till its realization excluding interest on Rs.10,00,000/- awarded towards artificial limb.

19. The KSRTC is directed to deposit the amount of compensation awarded within six weeks from the date of uploading this order on the website of the High Court.

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

**SD/-
(S.G.PANDIT)
JUDGE**

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