



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 3955 OF 2023

(MV-I)

BETWEEN:

1. SRI A. R. THILAK
S/O RAMESH
AGED ABOUT 6 YEARS
R/A AADHIHALLI VILLAGE
NAVILE POST, BAGUR HOBLI
CHANNARAYAPATNA TALUK
HASSAN DISTRICT -573 131.

PETITIONER BEING MINOR REPTD. BY
HIS FATHER RAMESH THE NATURAL GUARDIAN
...APPELLANT

(BY SRI SHRIPAD V SHASTRI, ADVOCATE)

AND:

1. THE NEW INDIA ASSURANCE CO. LTD.,
R/O 2B, UNITY BUILDING
ANNEXE MISSION ROAD
BANGALORE-01.
POLICY ISSUED BY ITS BRANCH OFFICE
AT No.1215, NURANGA HOUSE, 231
K G MARG, NEW DELHI-110 001.
BY ITS MANAGER.
2. MR UMESH H K
S/O KRISHNE GOWDA, MAJOR
R/A No.20, HANUMAN LAYOUT

Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI

Location: HIGH
COURT OF
KARNATAKA



THINDULU, VIDYARANYAPURA
BENGALURU-560 097.

...RESPONDENTS

(BY SRI K KISHORE KUMAR, ADVOCATE FOR
SMT. Y ARUNA, ADVOCATE FOR R1
V/O DTD. 19.6.23, NTICE TO R2 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED: 20.04.2023 PASSED IN MVC No.211/2021 ON THE FILE OF THE XXIII ADDITIONAL SMALL CAUSES JUDGE, 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 seeking enhancement of compensation awarded in the judgment and award dated 20.04.2023 passed in MVC No.211/2021 by XXI ACMM and XXIII Additional Small Causes Judge and MACT, Bengaluru (SCCH-25).

2. Even though the appeal is listed today for admission, with consent of learned counsels appearing for



the appellant and respondent No.1, it is taken up for disposal.

3. The appellant made a claim petition seeking award of compensation for the injuries sustained by him in a road traffic accident which took place on 17.03.2020 contending that accident occurred due to rash and negligent driving of driver of Omni Car bearing registration No.KA-50/M-8624. The claimant is aged 4 years. The Tribunal has recorded evidence, appreciating the evidence on record has assessed the compensation and awarded the under different heads as under:

SL. No	HEAD	COMPENSATION AMOUNT
1.	Pain and suffering already undergone and to be suffered in future including loss of comforts amenities on account of disability	Rs.1,00,000/-
2	Discomforts, inconvenience and Loss of earnings of the parent during the laid up period.	Rs.25,000/-
3	Medical bills	Rs.1,09,259/-
4	Conveyance, attendant and nourishment	Rs.17,000/-
Total		Rs.2,51,259/-



4. The Tribunal has also awarded interest at the rate of 6% per annum from the date of petition till realization and directed respondent No.1 -insurer to deposit the said award amount. The appellant -claimant filed this present appeal seeking enhancement of compensation.

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

6. Learned counsel for the appellant -claimant would contend that the claimant injured is aged about 4 years and as per the decision of Hon'ble Apex Court in the case of **Hitesh Nagjibhai Patel Vs Bababhai Nagjibhai Rabari and Anr¹**, the notional income of the child is to be taken into consideration for awarding loss of future income. He further submits that the claimant also entitled to compensation separately under the heads of pain and suffering, loss of earnings of parents, attendant and

¹ In 2025 INSC 1070



conveyance charges and loss of amenities. He further submits that doctor has stated disability of the claimant is 8% and The Tribunal has erred in taking the disability at 6%. With these, he prays to allow the appeal and enhancement of compensation.

7. Learned counsel for respondent No.1 -insurer would contend that the Tribunal has rightly assessed the compensation and compensation awarded under all heads are just and proper. There are no grounds for enhancement of compensation. With these, he prays to dismiss the appeal.

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

9. The claimant is aged about 04 years. P.W.2 - doctor has stated that the claimant has sustained the following injuries:

- a) displacement fracture left tibia mid shaft
- b) Greenstick fracture left tibia mid shaft



P.W.2 has assessed the disability and has stated that the disability of whole body is 8%. P.W.2 in the cross-examination has stated that after passing of time the green stick fracture will completely get healed and that they have conducted corrective surgery for the displaced fracture. Considering the said evidence of P.W.2, the Tribunal has rightly held that the functional disability of the claimant is at 6% to the whole body.

10. The Tribunal placing reliance on the judgment of Hon'ble Apex Court in the case of **Master Mallikarjun Vs Divisional Manager, National Insurance²** has assessed the compensation.

11. The Hon'ble Apex Court in the case of **Hitesh Nagjibhai Patel (supra)**, the notional income of the child has to taken into consideration for award of loss of future income. As per the chart prepared by the Karnataka State Legal Services Authority, the notional income for the year

² In ILR 2014 Kar 4891



2020 is Rs.14,500/- and multiplier applicable is 15.

Therefore, the loss of future income is calculated as under:

$$\text{Rs.14,500/-} \times 12 \times 15 \times 6\% = \text{Rs.1,56,600/-}$$

12. Since the claimant has sustained two fractures, claimant is entitled to compensation under the head of pain and suffering in sum of Rs.50,000/- and loss of amenities Rs.25,000/-. The Tribunal has rightly awarded loss of earnings of parents during laid up period in a sum of Rs.25,000/-. The Tribunal has rightly awarded medical expenses in a sum of Rs.1,09,259/-. The claimant has been admitted in hospital for 4 days and therefore, attendant and conveyance charges are awarded in sum of Rs.4,000/- (1000/- x 4). In view of the above the claimant is entitled to total compensation under different heads as under:

SL.No.	HEAD	COMPENSATION AMOUNT
1	Loss of Future income	Rs.1,56,600/-
2	Pain and suffering	Rs.50,000/-
3	Loss of amenities	Rs.25,000/-
4	Loss of earnings of the parent during the laid up period.	Rs.25,000/-



4	Medical Expenses	Rs.1,09,259/-
5	Conveyance, attendant and nourishment	Rs.4,000/-
Total		Rs.3,69,859/-

13. The claimant is entitled to total compensation of Rs.3,69,859/- as against Rs.2,51,259/- as awarded by the Tribunal. Consequently, the claimant is entitled to enhanced compensation of Rs.1,18,600/- (Rs.3,69,859/- minus Rs.2,51,259/-) with interest at the rate of 6% per annum from the date of petition till realization. Respondent No.1 – insurer is liable to pay the said enhanced compensation amount with interest.

14. In view of the above, the following

ORDER

- i) The appeal is ***allowed in part.***
- ii) The appellant –claimant is entitled to enhanced compensation of Rs.1,18,600/- (Rs.3,69,859/- minus Rs.2,51,259/-) with interest at the rate of 6% per annum from the date of petition till realization.



- iii) Respondent No.1 -insurer shall deposit the said enhanced compensation amount with interest before the Tribunal within a period of 06 weeks from this day, failing which it is liable to pay interest at the rate of 9% per annum from this date till date of payment of compensation.
- iv) Entire enhanced compensation shall be kept in a fixed deposit in the name of claimant -minor till he attains majority in Karnataka Bank, City Civil Court Branch, Bengaluru.
- v) The father of the claimant is entitled to withdraw the interest on the said fixed deposit for every 3 years for expenses of minor –claimant.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

DSP
List No.: 1 Sl No.: 46