



CNR: KAHC010308722022

NC: 2026:KHC:45070
MFA No. 4903 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.4903 OF 2022(MV-I)

BETWEEN:

VASU NAIKA
S/O MANCHA NAIKA
AGED ABOUT 43 YEARS
R/O CHIKUNDA VILLAGE, HUNSUR TALUK
MYSURURU DISTRICT-571105
(SINCE APPELLANT HAS SEVER INJURY
HE IS REPRESENTED BY HIS
NEXT FRIEND WIFE SMT MANJULA)

...APPELLANT

(BY SRI. SUMA K, ADVOCATE)

AND:

Digitally signed by
PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

1. KRISHNA T
S/O THAMMEGOWDA
AGED ABOUT 39 YEARS,
R/O MALLEGOWDANA KOPPALU
HUNSUR TALUK, MYSURU DISTRICT-571 105
2. M/S ROYAL SUNDARAM GENERAL
INSURANCE COMPANY LTD
MYSORE TRADE CENTRE,
BANGALORE-NILAGIRI ROAD
OPP TO SUB-URBAN BUS STAND
R/BY ITS MANAGER-570 001

...RESPONDENTS

(BY SRI. ANUP SEETHARAM RAO, ADVOCATE FOR R2,
R1 - SERVED, UNREPRESENTED)



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THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 19.03.2019 PASSED IN MVC NO.545/2015 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE AND JMFC & MACT, HUNSUR, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

1. The claimant, being dissatisfied with the compensation of Rs.6,46,463/- awarded by the Tribunal, vide judgment and award dated 19.03.2019 in MVC No.545/2015, is in appeal.
2. The fact that the accident occurred and the further fact that the offending vehicle was insured is not in dispute.
3. The Tribunal, on assessment of evidence, has awarded the following sums as compensation:

Sl. No.	Particulars	Amount in (Rs.)
1.	Pain and sufferings	20,000
2.	Loss of amenities	15,000
3.	Loss of income during laid up period	18,000



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4.	Conveyance, food, nourishment, attendant charges	15,000
5.	Medical expenses	2,22,063
6.	Loss of future income	3,56,400
	Total	6,46,463

4. The Tribunal, on analysis of medical evidence, has concluded that the claimant has suffered permanent disability to the extent of 33% to the whole body.

5. I have perused the evidence of the Doctors - PW.1, PW.2 and the wound certificate/disability certificate. As per Ex.P7, the claimant has suffered following injuries:

i. A cut lacerated wound present over occipital region of the scalp measuring 5x3x1cm.

ii. A contusion present over the left side of the forehead 2x1cm.

iii. A contusion present over the left maxillary region of the face.

iv. A cut lacerated wound over chin 2x1cm.



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- v. A cut lacerated wound over lower left lip 1.5 x 1.5cm.
6. As per Ex.P208 and 209, the same depicts as follows:
- i. Intellectual impairment (IQ-27%, assessed by clinical Psychologist on 12-12-2018)
 - ii. Left Hemiparesis (Power left shoulder, elbow and wrist = 4-/5 an grip = 10% and Power Left hip, knee and ankle=4/5)
 - iii. Dysarthria (speech disturbance)
 - iv. Ataxia (Imbalance-moderate) Assessed with Romberg's test, Heel to toe test, reverse walking, walking on single line etc.
 - v. SFBT was administered to assess the level of his visuo-spaital ability to substantiate mental age of the patient. He could not identify shapes and had difficulty judging the space for cubes and hence the test was terminated.



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vi. VSMS was administered to assess his current level of socio-adaptive functioning. On VSMS, the patient's social age was found to be 4 years 5 months and the corresponding Social Quotient was 27 which indicated sever deficits in his socio-adaptive functioning which accounts for 90% disability

vii. IDEAS was administered to assess the level of disability due to illness in the patient. On IDEAS, his scores were as below:

Domain	Score	Interpretation
Self-Care	3	Severe disability
Interpersonal activities	3	Severe disability
Communication and Understanding	3	Severe disability
Work	4	Profound Disability
A. TOTAL Score	13	
B.DOI Score	2	
Global Score (A+B)	15	Severe disability 70-99%



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7. Thus, the claimant has sustained intellectual impairment of 90%, left hemiparesis - 25%, Dysarthria - 25 and Ataxia - 35% in total 100%. Accordingly, the Doctors have assessed the functional disability to the whole body at 100%. The Apex Court in the case of **S. Ettiappan v. D. Kumar**, has held in paragraph 7.1 as under:

7.1 While assessing the compensation in case of claims arising out of motor vehicle accident, it would be the functional disability which will have to be taken into consideration for award of future loss of income. In the instant case, though the doctors have assessed physical disability to whole body at 70%, the tribunal has substituted its view to that of the experts inspite of there being no contra-material available before it to arrive at a conclusion that functional disability being 50%. This Court has time and again stated that tribunal would not sit in the armchair of an expert and re-assess the disability, particularly, when there is clear evidence available. In the instant case, the disability assessment certificate Exhibit-C1 revealed that appellant had suffered 70% physical disability as certified by the Medical Board. There being no other evidence tendered by the insurer or the insured, the tribunal could not have substituted its view by assessing the disability at 50%. This erroneous view of the tribunal has been rightly set aside by the High Court. However, the High Court while reappreciating the evidence has restricted the whole-body disability at 70% on the basis of Medical Board Certificate (Ex. C-1) without noticing the fact that on account of said disability suffered by the claimant, his functional disability



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would be 100%. It is not in dispute that appellant was working as a loader who used to discharge his duties of loading and unloading vegetables into the vehicles. This physical or manual activity would require support of both legs or in other words claimant is required to use both the legs for discharging his duties as a loader. By virtue of amputation of his right leg below the knee, he has become immobile or in other words, he is not in a position to discharge his daily routine work as a loader. It is not the case of insurer or insured that claimant was carrying on any other avocation and as such the disability of 70% suffered would not come in the way of his earning. To earn his bread, he had to work by loading or unloading vegetable into the vehicle which was the only avocation he was carrying on. Now by virtue of amputation of his leg below the knee appellant is not only unable to work as a loader but even unable to stand without support. As such the functional disability requires to be considered at 100% and not 70% as held by High Court.

8. Thus, the ratio laid down in the said case by the Hon'ble Apex Court squarely applies to the facts and circumstances of this case. Moreover, since there is intellectual impairment of 90%, definitely the same would result in 100% functional disability to the claimant. Hence, it would be just and appropriate to assess the disability suffered by the claimant at **100%.**



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9. The Tribunal has determined the monthly income, notionally at Rs.6,000/-. Since there is no credible documentary evidence to ascertain the actual monthly income, it would be appropriate and prudent to adopt the monthly income determined by Karnataka State Legal Services Authority, which, for the accident of the year 2014, would be **Rs.8,500/-**

10. As the disability has been assessed at 100%, future prospects of 40% needs to be added to the income. Accordingly, the income after adding future prospects would be a sum of **Rs.11,900/-** (Rs.8,500 + 40%).

11. As the claimant was aged 36 years, a multiplier of '**15**' would have to be applied. Consequently, the claimant would be entitled to a sum of **Rs.21,42,000/-** (Rs.11,900 x 12 x 15 x 100%) towards '*loss of future income*'.

12. Since the disability is assessed at 100%, the claimant would not be entitled for any sums towards loss of income during laid up period.



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13. Having regard to the injuries suffered and the lasting effects of the injuries on the claimant, the claimant would be entitled to a sum of **Rs.1,00,000/-** towards '*pain and suffering*' as against Rs.20,000/- and a sum of **Rs.1,00,000/-** towards '*loss of amenities*', as against the sum of Rs.15,000/- awarded by the Tribunal.

14. Having regard to the length of the stay of the claimant in the hospital, the claimant would also be entitled to 'Conveyance, food and nourishment at **Rs.30,000/-** as against the sum of Rs.15,000/- awarded by the Tribunal.

15. Further, as per the evidence of Doctor - PW2, on follow up treatment of the claimant, it was found that the claimant was totally dependant on attendant for all his daily personal activities including personal hygiene and that he cannot stand on his own, walks with swaying gait with a stick and falls off if unattended. In view of the assessment of disability at 100% and the condition of the claimant as assessed by the Doctor, I am of the considered opinion that the claimant is totally dependant on the attendant through out his life. As such considering his life span as 70 years, I deem it just and



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appropriate to award a sum of **Rs.10,00,000/-** towards attendant charges.

16. The sum of **Rs.2,22,063/-** awarded by the Tribunal towards medical expenses, being based on documentary evidence, is affirmed.

17. Consequently, the award of the Tribunal is modified and 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 and sufferings	20,000	1,00,000
2.	Loss of future income	3,56,400	21,42,000
3.	Medical expenses	2,22,063	2,22,063
4.	Loss of income during the laid up period	18,000	Nil
5.	Conveyance, food and nourishment	15,000	30,000
6.	Loss of amenities in life	15,000	1,00,000
7.	Attendant charges	Nil	10,00,000
	Total	6,46,463	35,94,063



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18. Thus, the claimant is held entitled to the total compensation of **Rs.35,94,063/-** as against Rs.6,46,463/-, along with interest at the rate of 6% per annum from the date of petition till its realization.

19. The Insurance Company is directed to deposit the amount of compensation awarded within six weeks from the date of receipt of a certified copy of this judgment.

20. On such deposit, a sum of Rs.30,00,000/- shall be invested in fixed deposit in any nationalised bank and the claimant is at liberty to withdraw the accrued interest periodically once in three months. Further, the claimant is entitled to withdraw the balance amount, if any.

Accordingly, the appeal is ***allowed in part.***

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

PKS
List No.: 1 Sl No.: 30