



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 9<sup>TH</sup> DAY OF JANUARY, 2026**

**BEFORE**

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

**MISCELLANEOUS FIRST APPEAL NO. 5945 OF 2014 (MV-I)**

**BETWEEN:**

SMT MOHANALATHA  
W/O V. NARAYANA SWAMY (LATE),  
AGED ABOUT 59 YEARS,  
R/AT NO. 91, 7TH CROSS,  
4TH MAIN ROAD,  
CHAMARAJPET,  
BANGALORE-560 018.  
(PRESENT ADDRESS).  
NO.159-117/55,  
2ND MAIN ROAD,  
2ND CROSS, CHAMARAJPET,  
BANGALORE-560 018.  
(PREVIOUS ADDRESS)

...APPELLANT

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by NIRMALA  
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Location:  
HIGH COURT  
OF  
KARNATAKA

(BY SRI. T N VISWANATHA.,ADVOCATE)

**AND:**

1. M/S NATIONAL INSURANCE  
CO. LTD., T.P. CLAIMS HUB,  
NO. 144-145, 2ND FLOOR,  
SHUBHARAM COMPLEX,  
M.G. ROAD,  
BANGALORE-560 001.
2. SMT. MALA  
W/O LOKESH, MAJOR,  
R/AT NO.4, MADIWALA  
MACHAIAH EXTENSION,  
GAVIPURAM,  
K.G. NAGAR,



BANGALORE-560 019.

...RESPONDENTS

(BY SRI. K N SRINIVASA.,ADVOCATE FOR R1  
V/O DTD 27.01.2015, NOTICE TO R2 IS DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 30.10.2013 PASSED IN MVC NO.7570/2011 ON THE FILE OF THE JUDGE, COURT OF SMALL CAUSES & XXVI ACMM, BANGALORE, 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 C.M. POONACHA

**ORAL JUDGMENT**

The present appeal is filed by the claimant calling in question the judgment and award dated 30.10.2013 passed by the Motor Accident Claims Tribunal, Court of Small Causes, Bangalore (SCCH-9),<sup>1</sup> in MVC No.7570/2011, whereunder the Tribunal has partly allowed the claim petition and awarded a total compensation of ₹62,050/- together with interest at 6% p.a.

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<sup>1</sup> hereinafter referred to as 'Tribunal'



2. The appellant/claimant impugns the finding of the Tribunal of contributory negligence to the extent of 20% as also seeks for enhancement of the quantum of compensation.

3. It is the case of the claimant that on 11.9.2011 at about 2.00 p.m., when she was walking on the 7<sup>th</sup> Cross, 4<sup>th</sup> Main, Chamarajpet, Bengaluru, the insured scooter being driven in a rash and negligent manner came and hit her, causing the accident in question.

4. The Tribunal noticing the sketch - Ex.P2 and noticing the fact that the said sketch indicated that the accident occurred four feet from the footpath towards the eastern side and that the accident occurred when the claimant was crossing the road, recorded a finding that the claimant was negligent to the extent of 20% in causing the accident and the rider of the insured motor cycle was negligent to the extent of 80%.

5. It is pertinent to note here that Ex.P2 denotes that the road is 35 feet wide. Ex.P2 further indicates that the rider of the motor cycle proceeded towards his left side and the accident occurred 4 feet from the edge of the road. There is no



material on record to justify as to why the rider of the motor cycle had to come to the extreme left hand side of the road when nearly more than 10 feet of the road was available on his side of the road for the rider of the motor cycle to proceed further. The Tribunal has rightly held that a greater degree of care is vested on the rider of the motor cycle. There is no explanation as to what prevented the rider of the motor cycle from taking adequate steps to avoid the accident. In view of the same, the finding of the Tribunal attributing 20% contributory negligence on the part of the claimant is erroneous. The rider of the motor cycle was entirely negligent in causing the accident in question. The finding of negligence of the Tribunal is accordingly modified.

6. The claimant was aged 55 years at the time of the accident. The claimant was a Tailor and also stated to have been doing saree business. Having regard to the fact that no documents have been produced to demonstrate the income of the claimant, keeping in mind the date of the accident, the notional income of the claimant is assessed as ₹6,500/- pm.



7. The wound certificate - Ex.P6, discharge summary - Ex.P11, the inpatient case sheet - Ex.P12, out patient card - Ex.P13 indicate that the claimant sustained fracture of right ankle. Two doctors have been examined as PWs.3 and 4. However, the Tribunal has not assessed the disability on the ground that the doctors were not the treated doctors. The claimant was treated as an inpatient for 3 days, wherein the fracture was surgically treated.

8. The occurrence of the accident, the injuries sustained as well as the treatment are undisputed and forthcoming from the material on record.

9. Keeping in mind the aforementioned, the compensation is re-assessed as follows:

i. Having regard to the nature of injuries sustained and the period of treatment, the compensation towards pain and suffering is reassessed as ₹40,000/- as against ₹15,000/- awarded by the Tribunal;

ii. The claimant was treated as an inpatient for three days. However, the claimant having sustained fracture to the ankle joint, the laid up period is assessed as



three months. Accordingly, towards diet, conveyance and attendant charges a sum of ₹10,000/- is awarded as against ₹600/- awarded by the Tribunal and a sum of (₹6,500/-x3) ₹19,500/- is awarded towards loss of income during laid up period as against ₹3,450/- awarded by the Tribunal;

iii. The Tribunal has awarded a sum of ₹12,000/- towards loss of amenities and unhappiness in life as well as a sum of ₹6,000/- towards discomfort and mental stress in life. Having regard to the nature of injuries sustained and the period of treatment, the compensation towards the same is reassessed as ₹25,000/-;

iv. The compensation awarded by the Tribunal towards future medical expenses is not interfered with;

v. Although the Tribunal has not assessed any disability, having regarding to the medical evidence on record, it is just and proper that a lumpsum compensation be awarded towards disability and accordingly, the same is assessed as ₹60,000/-.



10. Accordingly, the total compensation under various heads is re-assessed as follows:

| Sl.No. | Heads                                                                                                  | Amount awarded by the Tribunal (₹) | Amount awarded by this Court (₹) |
|--------|--------------------------------------------------------------------------------------------------------|------------------------------------|----------------------------------|
| 1.     | Pain and suffering                                                                                     | 15000.00                           | 40000.00                         |
| 2.     | For diet, conveyance and attendant charges                                                             | 600.00                             | 10000.00                         |
| 3.     | Loss of income during laid up period and rest for 20 days.<br><br>Reassessed as 3 months by High Court | 3450.00                            | 19500.00                         |
| 4.     | Loss of amenities and unhappiness in life                                                              | 12000.00                           | 25000.00                         |
| 5.     | Discomfort & mental stress                                                                             | 6000.00                            |                                  |
| 6.     | Future medical expenses                                                                                | 25000.00                           | 25000.00                         |
| 7.     | Disability                                                                                             | 0.00                               | 60000.00                         |
|        | <b>Total</b>                                                                                           | <b>62050.00</b>                    | <b>179500.00</b>                 |

11. Hence, the claimant is entitled for enhanced compensation of ₹1,17,450/- (₹1,79,500/- – ₹62,050/-) together with interest at 6% p.a.



12. In view of the finding of the Tribunal regarding contributory negligence of the claimant at 20% having been modified herein, the claimant is entitled to the aforesaid enhanced compensation, in addition to the amount deducted by the Tribunal. It is noticed that although the Tribunal had assessed the total compensation payable as ₹62,050/-, having regard to the finding of contributory negligence, the Tribunal had ordered for payment of ₹49,640/- to the claimant. Hence, in addition to the compensation enhanced by the Court, the claimant is entitled to the said difference amount being (₹62,050/- - ₹49,640/-) ₹12,410/-.

13. In view of the aforementioned, the following:

ORDER

- i) The appeal is allowed in part;
- ii) The judgment and award dated 30.10.2013 passed by the Motor Accident Claims Tribunal, Court of Small Causes, Bangalore (SCCH-9), in MVC No.7570/2011, is modified to the extent stated herein. In all other respects, the judgment and award of the Tribunal remains unaltered;



- iii) The claimant is entitled to further compensation of ₹1,29,860/-, which is rounded off as ₹1,30,000/- with interest at 6% per annum from the date of petition till its realization except for the delay period of 187 days, in terms of the order dated 10.11.2017 passed by this Court in the present appeal, in addition to the compensation awarded by the Tribunal.
- iv) Respondent No.1 - Insurance Company shall deposit the said compensation together with accrued interest within a period of eight weeks from the date of receipt of a copy of this judgment;
- v) After deposit, the entire enhanced compensation with accrued interest shall be disbursed to the claimant digitally after proper identification;
- vi) The Registry to draw the modified award accordingly.
- vii) Records be transmitted to the Tribunal forthwith.
- viii) No costs.

**Sd/-**  
**(C.M. POONACHA)**  
**JUDGE**