



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JUNE, 2026

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO. 4663 OF 2020 (MV-I)

BETWEEN:

SRI MANJUNATHA
S/O SHEENA SALIAN
AGED ABOUT 57 YEARS
R/AT SHESHIMANE
M. KODI, KODI POST
KASABA VILLAGE
KUNDAPURA TALUK – 576 201.

...APPELLANT

(BY SRI NAGARAJA HEGDE, ADVOCATE)

AND:

1. THE HEAD MASTER
VISHWA VINAYAKA NATIONAL
ENGLISH MEDIUM SCHOOL
THEKKATTE – 576 231.
2. THE UNITED INDIA INSURANCE CO. LTD.,
BRANCH OFFICE: KUNDAPURA
SRI LAXMI VENKATESH COMPLEX
N. H. 66, VADERHOBLI
KUNDAPURA – 576 201
REP. BY ITS BRANCH MANAGER.

...RESPONDENTS

(BY SRI K.PRASAD HEGDE., ADVOCATE FOR R1;
SRI P.B.RAJU, ADVOCATE FOR R2)

THIS MISCELLANEOUS FIRST APPEAL IS FILED U/S 173(1) OF MV ACT PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 22.10.2019, PASSED IN MVC NO.593/2018, ON THE FILE OF THE ADDITIONAL DISTRICT JUDGE AND ADDITIONAL MACT, UDUPI (SITTING AT KUNDAPURA), PARTLY ALLOWING THE CLAIM PETITION

Digitally signed by
SUMATHY KANNAN
Location: HIGH
COURT OF
KARNATAKA



FOR COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

THIS MISCELLANEOUS FIRST APPEAL, COMING ON FOR
ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS
UNDER:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present appeal seeks to challenge the Judgment
and Award dated 22.10.2019 in M.V.C.No.593/2018
passed by the Additional District Judge and Additional
MACT, Udupi, (Sitting at Kundapura), Kundapura,
(hereinafter referred to as the 'Impugned Award'). By the
Impugned Award, the learned Tribunal has awarded
Rs.12,64,500/- to the appellant/claimant along with
interest at 6% per annum from the date of petition till its
realisation.

2. The Appeal though listed for admission, with the
consent of the learned Counsel for the parties, is taken up
for final hearing and disposal today itself.



3. We have heard the learned Counsel for the appellant/claimant, learned Counsel for respondent No.1 and learned Counsel for respondent No.2/Insurance Company.

4. The brief facts are that the appellant/claimant, on 28.03.2018 at about 13.20 hours, as a pedestrian, when he was proceeding on the left side of Hale Alive Highway to M.Kodi road near Kinara Hotel in Koteshwara village of Kundapura Taluk, driver of the School Van bearing Registration No.KA-20-B-5116, being driven by its driver at a very high speed and in a rash and negligent manner, collided with the appellant/claimant. As a result of which, the appellant/claimant fell and sustained grievous injuries on his left hand. He was taken to Chinmayi Hospital, Kundapura and then shifted to KMC Hospital, Manipal where he was treated as an inpatient for about one month.

4.1. In view of the injuries sustained, a claim petition under Section 166 of the Indian Motors Vehicles Act, 1988 (hereinafter referred to as the 'M.V. Act') was filed by the



appellant/claimant before the learned Tribunal. The claim was contested by respondent No.2/Insurance Company. Respondent No.1/owner of the offending vehicle was placed ex-parte before the learned Tribunal.

4.2. Based on the pleadings between the parties, the following issues were framed by the learned Tribunal:

"ISSUES

1. *Whether the Petitioner proves that, he suffered injuries in R.T.A. that occurred on 28.03.2018 at about 13.20 hours Near Kinara Hotel, Koteshwara Village, Kundapura Taluk, due to rash and negligent driving by the driver of School Van bearing Reg. No.KA-20-B-5116?*
2. *Whether the petitioner is entitled for compensation? If so, what is the quantum and from whom?*
3. *What order or award?"*

4.3. The appellant/claimant examined himself as PW.1, Dr.Amrutha Raj as PW.2 and Subramanya Nayak as PW.3, and got 18 documents marked by them as Exs.P1 to P18 including Ex.P1/complaint with FIR, Ex.P3/Spot sketch, Ex.P4/wound certificate, Ex.P9/Salary Certificate, Ex.P11/IMV Report, Ex.P10/discharge bills, Ex.P13/Charge Sheet. In addition, treatment and disability certificate



were also filed as Ex.P14 and ExP15. Medical bills were filed as Ex.P16. Although respondent No.2 did not examine any witnesses, five documents as Exs.R1 to R5 were placed on record, including Exhibit-R4 (Fitness Certificate of the offending Vehicle), Exhibit-R5 (Insurance Policy).

4.4. Based on the evidence before the learned Tribunal, it was found that offending vehicle was being driven in a rash and negligent manner. In addition, although a salary certificate (Exhibit-P9) was filed, the learned Tribunal held that the salary certificate (Exhibit-P9) was not proved by examining the employer of the appellant/claimant and that the documentary evidence was not enough. The learned Tribunal has considered the income of claimant at Rs.9,000/- per month.

4.5. It was stated that the appellant/claimant suffered mangled extremity of left upper limb (with distal humerus fracture, proximal 1/3 ulna fracture, distal 1/3 ulna fracture, distal 1/3 radius fracture, 4th and 5th metacarpal fracture with extensive crush injury of the left forearm and



hand with distal neurovascular injury) and a laceration over the right hip. The learned Tribunal also awarded amounts under non-pecuniary heads including diet and nutrition, loss of amenities, medical expenses and loss of pain and suffering. The disability of the appellant/claimant was also taken at 85%. Although the appellant/claimant had claimed Rs.50,000/- towards an artificial limb, the doctor (PW-2) had admitted in his evidence that he had not prepared an estimate for the artificial limb. Thus, an amount of Rs.20,000/- was awarded for the artificial limb by the learned Tribunal. In addition, Rs.9,000/- was awarded towards attendant charges. Accordingly, the learned Tribunal held that the appellant/claimant is entitled to the following amounts as compensation:

Sl. No.	Heads of Compensation	Amount (in Rs.)
1	Loss of future income	8,26,200/-
2	Pain and Suffering	1,00,000/-
3	Medical expenses	1,88,274/-
4	Loss of income during laid up period	36,000/-
5	Diet and Nutrition	25,000/-
6	Loss of Amenities	50,000/-
7	Conveyance Charges	10,000/-
8	Expenses towards the artificial	20,000/-



	limb	
9.	Attendant charges	9,000/-
	TOTAL (rounded off to)	12,64,474/- 12,64,500/-

4.6. Thus, an amount of Rs.12,64,500/-, along with interest at 6% per annum was awarded.

5. The challenge in the present appeal by the appellant/claimant is on three grounds, firstly the learned Tribunal has not considered the salary certificate produced by the appellant/claimant. The learned counsel for the appellant/claimant submits that even if salary slips is not considered, since the accident happened in the year 2018, the notional income in that year was to be awarded. In addition, he submits that future prospects as well as future medical expenses were also required to be awarded. Learned Counsel for the appellant/claimant further submits that the disability ought to have been 100% functional disability in view of the amputation.

6. Learned Counsel for respondent No.2/insurance company on the other hand while fairly submits that the



future prospects and notional income was to be taken as per the settled law. He submits that the disability was correctly calculated as 85% by the learned Tribunal and the reliance is placed in the discussion in the Impugned Award.

7. The only point that arises for consideration before this Court is, whether the Impugned Award requires any interference by this Court?

8. The undisputed fact is that the notional income for the year 2018 was Rs.12,500/- p.m. Since the accident took place in the year 2018, the amount needs to be reassessed. The injured was 57 years old and the amount awarded for loss of earning capacity would thus be calculated in terms of the notional income for the said year.

9. In addition, on the aspect of disability, the learned Tribunal has found that in view of the fact that the claimant has suffered amputation of left upper limb in the accident, considering the nature of the avocation and its



impact, the learned Tribunal has considered 85% permanent total disability to the whole body. This aspect of the matter has not been challenged by respondent No.2/insurance company. The appellant/claimant has suffered grievous injuries to his arm, which have led to the amputation of his left arm below the elbow. However, it is not disputed that his right arm and the rest of his body is fully functional. Given the nature of his work as a mason, the claimant would definitely not be able to carry out his avocation, but would be able to undertake some other type of works. The disability taken by the learned Tribunal is 85%. In view thereof, this Court finds no ground to interfere with the award of 85% permanent total disability for the whole body to calculate the loss of future income.

10. The accident took place in the year 2018. The claimant was aged 57 years. Therefore 10% of his income ought to be added as future prospects. The notional income during the relevant period was Rs.12,500/- per month and the applicable multiplier is 9. Thus the



compensation under head loss of earning capacity works out to:

$$[\text{Rs.}12,500/- + 10\% \text{ of Rs.}12,500/- = \text{Rs.}13,750/- \times 12 \times 9 \times 85\% = \text{Rs.}12,62,250/-]$$

11. It is also not disputed that in view of the nature of the injuries sustained, the appellant/claimant took treatment for about one month in the hospital. Considering the nature of the injuries, the appellant/claimant would not be able attend to his regular work at least for five months. Therefore, it would be appropriate to proportionately enhance the amount on the head loss of income during laid up period for five months. In addition, considering the nature of the injuries that the claimant suffered amputation of left upper limb, the claimant requires to be treated in future. Accordingly, a sum of Rs.20,000/- would be appropriate under the head of loss of future medical expenses.

11.1. In addition, the compensation awarded by the learned Tribunal on other heads is appropriate and the same needs no interference.



12. Given the evidence produced *qua* the severity of injuries which are reflected in the Impugned Judgment, the compensation awarded by the learned Tribunal is reassessed in the following terms:

Sl.No.	Heads of Compensation	Amount (in Rs.)
1	Loss of earning capacity (13,750/- x 12 x 9 x 85%)	12,62,250/-
2	Pain & Suffering	1,00,000/-
3	Medical expenses	1,88,874/-
4	Loss of Income during laid up period (12,500 x 5)	62,500/-
5	Diet and nutrition	25,000/-
6	Loss of amenities	50,000/-
7	Conveyance charges	10,000/-
8	Expenses to the artificial limb	20,000/-
9	Attendant charges	9,000/-
10	Future medical expenses	20,000/-
	TOTAL	17,47,624/-
	Less: Awarded by MACT	12,64,500/-
	Enhancement	4,83,124/-

13. Hence, the appellant/claimant is entitled to total compensation of **Rs.17,47,624/-** along with interest at 6% p.a. as awarded by the learned Tribunal from the date of petition till the date of realization.

14. Accordingly, the Court proceeds to pass the following:



ORDER

(i) The appeal is ***allowed in part;***

(ii) The Impugned Judgment and Award dated 22.10.2019 in M.V.C.No.593/2018 passed by the Additional District Judge and Additional MACT, Udupi, (Sitting at Kundapura), Kundapura, is modified, to the extent that the claimant is entitled to enhanced compensation of **Rs.4,83,124/-** along with interest at the rate of 6% per annum in addition to **Rs.12,64,500/-** as awarded by the learned Tribunal.

(iii) The remaining portion of the Impugned Award of the learned Tribunal remains undisturbed.

(iv) The respondent No.2/Insurance Company shall deposit the enhanced compensation with interest applicable thereon, as awarded by the learned Tribunal, within a period of eight weeks



from the date of receipt of a copy of this judgment;

(v) On such deposit of compensation, the same shall be released in favour of the appellant/claimant, on filing of an appropriate application by the appellant/claimant for withdrawal of the enhanced amount.

(vi) The Registry is directed to draw the modified Award accordingly.

(vii) The Registry is directed to transmit a copy of this judgment to the concerned Tribunal.

(viii) Pending application(s), if any, stand closed.

No order as to costs.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**