



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.4215/2017 (MV-I)

BETWEEN:

RAMA SHETTIGAR
AGED ABOUT 24 YEARS
S/O CHANDRASHEKAR SHETTIGAR
R/O HALTHUR MANE
VAKWADY VILLAGE
KUNDAPURA TALUK-576101.

...APPELLANT

(BY SRI. PAVANA CHANDRA SHETTY H, ADV.,)

AND:

1. CHANDRA
AGED ABOUT 51 YEARS
S/O ANNAPPA
R/O 3/7A, MAHAMAYA NILAYA
KORAVADI, KUMHASHI VILLAGE
KUNDAPURA TALUK-576101.
2. UNIVERSAL SAMPO GENERAL
INSURANCE CO. LTD.,
BRANCH OFFICE, MANGALORE
OPP: CITY HOSPITAL
KADRI, MANGALORE-575201
REP BY ITS BRANCH MANAGER.

...RESPONDENTS

(BY SRI. RAJENDRA HEGDE MULKHAND, ADV., FOR R2
R1 SERVICE OF NOTICE IS D/W V/C/O DTD:30.07.2021)

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by RUPA V
Location: HIGH
COURT OF
KARNATAKA



THIS MFA IS FILED U/S 173(1) OF MV ACT, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 14.03.2017 PASSED BY THE COURT OF SENIOR CIVIL JUDGE AND ADDL. MACT AT KUNDAPURA, IN MVC NO.918/2015 TO THE EXTENT OF DISALLOWED CLAIM AND ALLOW THIS APPEAL BY ENHANCING THE COMPENSATION, IN THE INTEREST OF JUSTICE.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL)

This appeal is filed under Section 173(1) of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the claimant being aggrieved by the judgment and award dated 14.03.2017 passed in MVC No.918/2015 by the Senior Civil Judge and Additional Motor Accident Claims Tribunal, Kundapura, (for short, 'the Tribunal') seeking enhancement of compensation.



2. The parties are referred to as per their ranking before the Tribunal.

3. The brief facts leading to filing of this appeal are that the claimant was proceeding on his bicycle on the extreme left side of the road and when he reached near Nandhi Granite, Beejadi Village, Kundapura Taluk, at that time, a Maruti Omni car bearing registration No.KA-20 M-4096 driven by the respondent No.1 in a rash and negligent manner, dashed against the claimant's bicycle which resulted in the claimant sustaining grievous injuries. It is averred that the claimant was provided treatment at N.R.Acharya Hospital, Koteshwara and thereafter, shifted to K.M.C.Hospital, Manipal. It is further averred that the claimant sustained fractural injuries, suffered physical disability due to the road traffic accident and was provided treatment in the said hospitals. It is also averred that the claimant was working as a Mason as well as a Painter. It was claimed that he was earning Rs.18,000/- p.m. The



claimant filed a claim petition under Section 166 of the Act, seeking compensation for the injuries suffered by him. The respondent No.2 entered appearance and opposed the claim petition by denying the injuries suffered by the claimant. They have denied the income and vocation of the claimant and sought for the dismissal of the claim petition.

4. The Tribunal framed the issues and recorded the evidence. The claimant examined himself as PW-1, examined Dr.Monappa Naik A. as PW-2 and got marked Exs.P1 to P12. The respondent did not adduce any evidence. The Tribunal, on appreciation of the evidence, awarded total compensation of Rs.5,68,790/- along with interest at the rate of 6% p.a. by directing the respondent Nos.1 and 2 to pay the compensation. Being aggrieved, the claimant is in appeal seeking for higher compensation.

5. Sri.Pavana Chandra Shetty H, learned counsel for the appellant submits that the Tribunal has committed



a grave error in assessing the income of the claimant at Rs.8,000/- p.m. which he seeks to re-assess at Rs.9,000/- p.m. by considering the vocation of the claimant. It is submitted that the Tribunal has not awarded any compensation under the head of food, conveyance and attendant charges and has awarded meagre compensation under the head of loss of amenities. Hence, he seeks to allow the appeal.

6. *Per contra*, Sri.Rajendra Hegde Mulkhand, learned counsel for the respondent No.2-Insurance Company supports the impugned judgment and award of the Tribunal and submits that the claimant has failed to produce any evidence before the Tribunal to substantiate his income and therefore, the Tribunal has rightly assessed the income at Rs.8,000/- p.m., awarded just compensation and there is no scope for enhancement. Hence, he seeks to dismiss the appeal.



7. We have heard the arguments of the learned counsel for the appellant, the learned counsel for the respondent No.2 and meticulously perused the material available on record including the Tribunal records.

8. The only point that would arise for consideration in this appeal is:

"Whether the impugned judgment and award passed by the Tribunal calls for any interference?"

9. The aforementioned point is answered in the affirmative for the following reasons:

(a) The appellant-claimant and the respondent No.2-Insurance Company do not dispute with regard to the fact that the claimant met with a road accident on 04.09.2015 and sustained the following fractures:

- (i) Right subtrochantric femur fracture
- (ii) Left pubic fracture



- (iii) Right acromio clavicular dislocation
 - (iv) Abrasions (1x1 compensation each) over right shoulder
 - (v) Abrasion over right molar region 2x2 cms
- (b) It is also not in dispute between the parties that the accident was caused due to the actionable negligence of the driver of the Maruti Omni car bearing registration No.KA-20 M-4096 which is insured with the respondent No.2 and they are liable to pay the compensation. The material on record indicates that the claimant was provided treatment at K.M.C. Hospital, Manipal and he was inpatient on two occasions i.e. from 04.09.2015 to 07.09.2015 and from 31.05.2016 to 02.06.2016. The material on record further indicates that PW-2 Dr.Monappa Naik A. has deposed before the Tribunal that the claimant has sustained disability to the extent of 15% to his right lower limb and 16% to his right upper limb. It is not in dispute that



the claimant has deposed before the Tribunal that he is a Mason as well as a Painter by vocation and used to earn Rs.18,000/- p.m. However, no cogent or acceptable evidence was placed before the Tribunal to substantiate the same. In the absence of evidence with regard to the income of the claimant, we are of the considered view that it would be appropriate to assess the income of the claimant at Rs.9,000/- notionally placing reliance on the notional income chart prepared by the Karnataka State Legal Services Authority as against Rs.8,000/- p.m. assessed by the Tribunal.

- (c) The claimant is not disputing with regard to the assessment of disability by the Tribunal, however, it is contended that the award of compensation by the Tribunal under the head of loss of amenities is on the lower side and no compensation is awarded under the



miscellaneous expenses. In our considered view, the said contention is required to be accepted. Considering the evidence available on record and taking note of the fact that the claimant has sustained two fractures, one dislocation and two other injuries, and was an inpatient for more than 8 days on two occasions, we are of the view that ends of justice would be met if we award Rs.50,000/- under the head of loss of amenities as against Rs.25,000/- awarded by the Tribunal. The Tribunal has erred in not awarding any compensation under the head of food and nourishment, conveyance and attendant charges. Hence, it would be appropriate to award Rs.25,000/- under the aforesaid head. The impugned judgment and award of the Tribunal to the aforesaid extent is modified. The compensation is re-computed as under:



HEADS	AMOUNT (in Rs.)
Pain and suffering	70,000
Medical bills	1,52,870
Loss of income during laid up period (9,000 x 8 months)	72,000
Loss of future income due to disability (9,000 x 12 x 18 x 14%)	2,72,160
Loss of amenities	50,000
Future medical expenses	15,000
Food and nourishment, conveyance, attendant charges	25,000
TOTAL	6,57,030

Thus, the appellant-claimant shall be entitled to a total compensation of **Rs.6,57,030/-** as against Rs.5,68,790/- awarded by the Tribunal.

10. In the result, we proceed to pass the following:



ORDER

- a) The appeal is ***allowed-in-part***.
- b) The impugned judgment and award dated 14.03.2017 passed by the Tribunal in M.V.C.No.918/2015 is modified to an extent that the appellant-claimant would be entitled to total compensation of **Rs.6,57,030/-** as against Rs.5,68,790/- awarded by the Tribunal.
- c) The enhanced compensation shall carry interest at the rate of 6% p.a. from the date of petition till realisation.
- d) The respondent-Insurance Company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of six weeks from the date of receipt of the certified copy of this judgment.



- e) The rest of the judgment and award of the Tribunal with respect to apportionment, deposit and release shall remain unaltered.
- f) Registry shall transmit the records to the Tribunal forthwith.

Draw the modified award accordingly.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE