



NC: 2026:KHC:53404
MFA No. 1405 of 2019

CNR: KAHC010330592019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.1405 OF 2019(MV-I)

BETWEEN:

CHANDRASHEKAR
S/O NANJEGOWDA
AGED ABOUT 48 YEARS,
R/O OBALAPURA VILLAGE,
NOW R/O SALAKATTE VILLAGE,
KANDIKERE HOBLI
C N HALLI TALUK
TUMKUR DISTRICT - 572 214.

...APPELLANT

(BY SRI MANJE GOWDA B.V., ADVOCATE FOR
SRI CHANDRASHEKARA KA., ADVOCATE)

AND:

1. S. SURESHA
S/O SIDDALINGAMURTHY
AGED ABOUT 45 YEARS,
R/ SALAKATTE VILLAGE,
KANDIKERE HOBLI
C N HALLI TALUK
TUMKUR DISTRICT - 572 214.
2. UNITED INDIA INSURANCE CO LTD.,
B H ROAD, TIPTUR
TUMAKURU DISTRICT - 572 201
REPRESENTED BY ITS MANAGER.

...RESPONDENTS

(BY SRI S.KRISHNA KISHORE, ADVOCATE FOR R2;
V/O DATED 30.01.2020 NOTICE TO R1 IS D/W)

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 08.01.2018 PASSED IN MVC NO.425/2016 ON THE FILE OF THE SENIOR CIVIL JUDGE & XIX MACT, CHIKKANAYAKANAHALLI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 08.01.2018 passed by Senior Civil Judge & JMFC and XIX MACT, Chikkanayakanahalli in MVC no.425/2016, this appeal is filed.

2. Sri Manjay Gowda, learned counsel appearing for Sri KA Chandrasekhar, advocate for appellant submitted that appeal was by claimant seeking enhancement of compensation.

3. Brief facts leading to this appeal are that at 1:00 p.m. on 27.08.2015, when claimant was riding pillion on motorcycle no.KA-44-L-5548 towards Hobalapura, due to sudden brakes applied by rider, both fell down and claimant sustained grievous injuries. Despite treatment at MS Ramaiah



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Hospital, Bengaluru, he did not recover fully and sustained loss of earning capacity. Claiming compensation, he filed claim petition against owner and insurer of motorcycle under Section 166 of Motor Vehicles Act, 1988 (**MVA**).

4. Despite service of notice, owner did not appear. Only insurer opposed claim petition on all grounds. Based on pleadings, Tribunal framed following issues:

ISSUES:

- 1. Whether the petitioner proves that he sustained the injuries in the accident took place on 27-08-2015 at about 02.00 p.m. on Huliyaar - Hosadurga road, near Kalpatharu Brick Factory, due to rash and negligent riding of motor cycle bearing No.KA-44-L-5548 by its rider?*
- 2. Whether the petitioner is entitled for any compensation? If so, to what extent and from whom?*
- 3. What order or award?*

5. Claimant along with Dr.Yashwanth Kumar deposed as PWs.1 and 2 and got marked Exhibits P1 to P43. Respondent did not lead oral evidence but got marked copy of insurance policy with consent as Exhibit R1.

6. On consideration, Tribunal held accident had occurred due to rash and negligent riding of insured motorcycle



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by its rider and claimant was entitled for compensation. It assessed total compensation of Rs.2,44,720/- with interest at 6% p.a. from date of petition till its realization. Aggrieved by inadequacy, appeal was filed.

7. It was firstly submitted that though Tribunal had assessed medical expenses against bills at Rs.62,458/- and held claimant entitled for same, but not added it while totalling compensation. It was further submitted, as on date of accident, claimant was 45 years of age and earning Rs.25,000/- per month from agriculture and milk dairy. However, Tribunal erroneously considered his monthly income at only Rs.8,000/- and awarded inadequate compensation. It was submitted that Tribunal had rightly applied multiplier of 14 and extent of loss of earning capacity at 13%. But erred in not awarding any compensation towards loss of amenities and loss of income during laid-up period. Even compensation awarded towards pain and suffering by clubbing it with loss of expectation in life at Rs.20,000/- was inadequate and sought enhancement. It was submitted that award of Rs.40,000/- towards future



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medical expenses was not under challenge. On above grounds, sought for allowing appeal.

8. On other hand, Sri Krishna Kishore, learned counsel for respondent no.2 opposed appeal and considering facts and circumstances of case, Tribunal had assessed compensation under each of heads separately and passed award and there was no scope for enhancement.

9. Heard learned counsel, perused impugned judgment and award and record.

10. From above and since only claimant is in appeal for enhancement, point that would arise for consideration is:

"Whether claimant is entitled for enhancement of compensation, as prayed?"

Same is answered *partly in affirmative* for following reasons:

11. As stated above, as on date of accident, claimant was 45 years of age and claimed to be earning Rs.25,000/- per month from Agriculture and Milk Dairy. However, there was no specific material on record to substantiate income. In absence,



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Tribunal rightly assessed it notionally. Notional income for year 2015 being Rs.9,000/- per month, Tribunal erred in taking it at Rs.8,000/-. Rs.9,000/- has to be considered. There is no dispute about extent of disability assessed at 13% and applicability of multiplier of 14. Thus future loss of income would be **Rs.1,96,560/-** (Rs.9,000 X 13% X 12 X 14).

12. Normally fractures take about 3 months to heal. Considering said period as period of layoff, claimant would be entitled to **Rs.27,000/-** towards loss of income during laid-up period. Tribunal has awarded compensation of Rs.20,000/- towards pain and suffering and loss of expectation in life which would be grossly inadequate, since fracture is to structural bone, with additional fracture, claimant would be entitled for compensation of **Rs.50,000/-** (Rs.40,000/- + Rs.10,000/-) towards pain and suffering. Claimant would be entitled for separate compensation of **Rs.25,000/-** towards loss of amenities. Considering in-patient treatment period of 11 days, award of **Rs.10,000/-** towards Attendant charges and other incidental expenses would be justified. Award of **Rs.40,000/-**



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towards future medical expenses is not challenged. Thus, total compensation would be **Rs.4,11,018/-**.

13. Consequently, following:

ORDER

- i. Appeal is ***allowed***;
- ii. Judgment and award dated 08.01.2018 passed by Senior Civil Judge & JMFC and XIX MACT, Chikkanayakanahalli in MVC no.425/2016, is *modified*.
- iii. Claimant is entitled for re-assessed compensation of **Rs.4,11,018/-**. Same shall carry interest at 6% p.a. from date of claim petition till deposit excluding period of 310 days being delay in filing appeal.
- iv. Insurer to deposit it within a period of six weeks.
- v. On deposit, entire compensation is ordered to be released in favour of claimant.

**Sd/-
(RAVI V HOSMANI)
JUDGE**