



CNR: KAHC010137152022

NC: 2026:KHC:38566
MFA No. 2708 of 2022
C/W MFA No. 5351 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.2708 OF 2022(MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO.5351 OF 2022(MV-I)

IN MFA No. 2708/2022

BETWEEN:

THE BRANCH MANAGER
CHOLAMANDALAM MS GIC LTD
NO.16-1-44(14), 1ST FLOOR,
SR COMPLEX, BENDUR BELIROAD,
KANKANADI SO SOUTH CANARA,
NOW REP. BY ITS THE MANAGER,
CHOLAMANDALAM MS GIS LTD.,
NO.4, 9TH FLOOR, LIVING 6,
GOLDEN HEIGHTS,
59TH C CROSS, 4TH M BLOCK,
RAJAJINAGAR INDUSTRIAL ESTATE,
NEAR SUJATHA TALKIES,
BANGALORE-560 010.

...APPELLANT

(BY SRI. PRADEEP B, ADVOCATE)

AND:

1. NAYAZULLA
S/O ABDUL RASHEED,
NOW AGED ABOUT 40 YEARS,
R/O BACKSIDE ROAD OF
MECCA MASJID SULEBYLE,
SHIVAMOGGA.

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



CNR: KAHC010137152022

NC: 2026:KHC:38566
MFA No. 2708 of 2022
C/W MFA No. 5351 of 2022

2. IRFAN B
S/O PYARE JAN,
NOW AGED ABOUT 33 YEARS,
R/O 7TH CROSS, RIGHT SIDE
TIPPU NAGARA, SHIVAMOGGA.
3. SAMIULLA
S/O NAZEER SAB,
AGED ABOUT 53 YEARS,
R/O 2ND CROSS, RIGHT SIDE,
MILAGHATTA, SHIVAMOGGA.

...RESPONDENTS

(BY SRI. M.V MAHESWARAPPA, ADVOCATE FOR R1,
NOTICE TO R2 & R3 IS DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 10.11.2021 PASSED IN MVC
NO. 937/2017 ON THE FILE OF THE I ADDITIONAL SENIOR
CIVIL JUDGE, C.J.M AND ADDITIONAL M.A.C.T.-VII,
SHIVAMOGGA, AWARDING COMPENSATION OF RS.14,96,610/-
WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF THE
PETITION TILL THE DATE OF DEPOSIT.

IN MFA NO. 5351/2022

BETWEEN:

NAYAZULLA
S/O ABDUL RASHEED
AGED ABOUT 40 YEARS
R/AT BACK SIDE ROAD OF
MECCA MASJID
SULEBYLU, SHIVAMOGGA
SHIVAMOGGA-577 201

...APPELLANT

(BY SRI. M.V MAHESWARAPPA, ADVOCATE)



CNR: KAHC010137152022

NC: 2026:KHC:38566
MFA No. 2708 of 2022
C/W MFA No. 5351 of 2022

AND:

1. IRFAN B
S/O PYARE JAN
AGED ABOUT 33 YEAWRS
R/AT 7TH CROSS, RIGHT SIDE
TIPPU NAGARA
SHIVAMOGGA 577 201
2. SAMIULLA
S/O NAZEER SAB
AGED ABOUT 53 YEARS
R/O 2ND CROSS
RIGH SIDE, MILAGHATTA
SHIVAMOGGA-577 201
3. THE MANGER
CHOLAMANDALAM M.S. GENERAL
INSURANCE CO. LTD
NO. 16-1-44 (14),
1ST FLOOR, S.R. COMPLEX,
BENDUR BELL ROAD,
KANKANADI S.O
SOUTH CANARA 566 221

...RESPONDENTS

(BY SRI. PRADEEP B, ADVOCATE FOR R3,
NOTICE TO R1 & R2 IS DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 10.11.2021 PASSED
IN MVC NO.937/2017 ON THE FILE OF THE I ADDITIONAL
SENIOR CIVIL JUDGE, CJM AND AMACT-VII,
SHIVAMOGGGA, PARTLY ALLOWING THE CLAIM PETITION
FOR COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K



CNR: KAHC010137152022

NC: 2026:KHC:38566
MFA No. 2708 of 2022
C/W MFA No. 5351 of 2022

ORAL JUDGMENT

1. While MFA.No.2708/2022 is by the insurer challenging saddling of liability on it as well as on the quantum of compensation, MFA.No.5351/2022 is by the claimant seeking enhancement of compensation awarded vide judgment and award dated 10.11.2021 passed in MVC.No.937/2017.
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	30,000
2.	Loss of future income	11,82,720
3.	Medical expenses	2,08,890
4.	Loss of income during the laid up period	40,000
5.	Conveyance, food, nourishment, attendant charges	15,000
6.	Loss of amenities in life	20,000
	Total	14,96,610



CNR: KAHC010137152022

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MFA No. 2708 of 2022
C/W MFA No. 5351 of 2022

4. Heard the learned counsel for the claimant and the learned counsel for the insurer and perused the documents.

5. Learned counsel for the claimant would contend that the Tribunal has erred in assessing 40% disability to the claimant although the Doctor has assessed 80% partial disability and functional disability as per Ex.P12 and P15, as such, the same requires interference by this Court.. Further, the Tribunal has erred in awarding just compensation under all the heads. Accordingly, he prays for enhancement of compensation and for allowing of the claimant's appeal.

6. *Per contra*, learned counsel for the insurer would contend that the Tribunal has erred in assessing the disability of the claimant at 40% based on the evidence of the Doctor - PW.3, who has not treated the claimant. He would further contend that the Doctor has deposed that the claimant has sustained neuro disorder and that his mindset is similar to 6 years 5 months old kid. However, the claimant has been examined before the Tribunal and that he had given clear answers in the cross-examination as a normal man. As such, the evidence of the Doctor cannot be believed. Consequently, the Tribunal has



CNR: KAHC010137152022

NC: 2026:KHC:38566
MFA No. 2708 of 2022
C/W MFA No. 5351 of 2022

erred by adding 40% future prospects to the notional income. Accordingly, he would pray for allowing of insurer's appeal.

7. I have given my anxious consideration to the submissions of learned counsel for both the parties.

8. A perusal of Ex.P12 reveals that the claimant has suffered 80% neurobehavioral disability and that the same has been assessed by the Doctor based on DGHS Guidelines. It further reveals that the claimant has moderate mental retardation and low level of memory functioning. However, the claimant, during the examination before the Tribunal has very clearly answered to all the questions with regard to the accident, hospitalization, medical bills, avocation and the further treatment he is required to take, thereby making him capable of understanding and giving evidence individually, which is contrary to the statements made by the doctor. In view of the same, I deem it just and appropriate to assess the disability suffered by the claimant at **20%**.

9. Since there was no credible evidence to substantiate the actual monthly income of the claimant, the Tribunal has rightly



CNR: KAHC010137152022

NC: 2026:KHC:38566
MFA No. 2708 of 2022
C/W MFA No. 5351 of 2022

determined the monthly income, notionally at **Rs.11,000/-** by adopting the monthly income determined by Karnataka State Legal Services Authority.

10. As the claimant was aged about 35 years, a multiplier of '16' would have to be applied. Consequently, the claimant would be entitled to a sum of **Rs.4,22,400/-** (11,000 x 12 x 16 x 20%) towards '*loss of future income*'.

11. As a consequence, the amount of Rs.40,000/- awarded by the Tribunal towards '*loss of income during the laid up period*' would also stand enhanced to **Rs.66,000/-** considering the laid up period as six months (11,000 x 6 months).

12. Having regard to the injuries suffered and having regard to the lasting effects of the injuries on the claimant, the claimant would be entitled to a sum of **Rs.60,000/-** towards '*pain and suffering*' as against Rs.30,000/- and a sum of **Rs.50,000/-** towards '*loss of amenities*' as against the sum of Rs.20,000/- awarded by the Tribunal.



CNR: KAHC010137152022

NC: 2026:KHC:38566
MFA No. 2708 of 2022
C/W MFA No. 5351 of 2022

13. The sum of **Rs.15,000/-**, awarded by the Tribunal towards '*Conveyance, food and nourishment and attendant charges*', being just and proper is affirmed.

14. The sum of **Rs.2,08,890/-** awarded towards medical expenses, being based on documentary evidence, is affirmed.

15. Having regard to the requirement of further treatment to the claimant, I deem it just and appropriate to award a sum of **Rs.25,000/-** towards '*Future Medical Expenses*'.

16. 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	30,000	60,000
2.	Loss of future income	11,82,720	4,22,400
3.	Medical expenses	2,08,890	2,08,890
4.	Future medical expenses	-	25,000
5.	Loss of income during	40,000	66,000



CNR: KAHC010137152022

NC: 2026:KHC:38566
MFA No. 2708 of 2022
C/W MFA No. 5351 of 2022

	the laid up period		
6.	Conveyance, food, nourishment, attendant charges	15,000	15,000
7.	Loss of amenities in life	20,000	50,000
	Total	14,96,610	8,47,290

17. Thus, the claimant is held entitled to the total compensation of **Rs.8,47,290/-** as against Rs,14,96,610/-, along with interest at the rate of 6% p.a. from the date of petition till its realization.

18. 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.

19. The amount in deposit shall be transferred to the Tribunal.

Both the appeals are accordingly ***allowed in part.***

SD/-
(RAJESH RAI K)
JUDGE

PKS/List No.: 1 SI No.: 41