



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCELLANEOUS FIRST APPEAL NO. 5016 OF 2017 (MV-I)

BETWEEN:

SRI ASHWATHNARAYANA
S/O RANGAPPA
AGED ABOUT 35 YEARS
R/AT DEVARAJANAGAR
WARD NO.19, KOGADIYAPPA
COLLEGE ROAD,DODDABALLAPUR
BANGALORE RURAL DISTRICT.

...APPELLANT

(BY MISS. ANUSHA T.S., ADVOCATE FOR
SRI. SUGUNA R REDDY, ADVOCATE)

AND:

1. SRI APPAIAHNNA P
S/O LATE PILLASIDDAPPA
@ CHICKAPPAIAH,
MAJOR IN AGE, R/AT ALAHALLI,
ARALUMALLIGE POST,DODDABALLAPUR,
BANGALORE RURAL DISTRICT - 561 203.
2. THE BRANCH MANAGER
NATIONAL INSURANCE CO.LTD.
DODDABALLAPUR DIVISION
SRINIVAS MARKET CAMPLEX 1974
CENEMA ROAD, DODDABALLAPUR
BANGALORE RURAL DISTRICT-561 203.

...RESPONDENTS

(VIDE ORDER DATED 08.08.2022,
NOTICE TO R1 IS DISPENSED WITH
SRI. ASHOK N. PATIL, ADVOCATE FOR R2)

Digitally signed
by
SHARADAVANI
B
Location: High
Court of
Karnataka





THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 07.03.2017 PASSED IN MVC NO.655/2015 ON THE FILE OF THE IV ADDITIONAL DISTRICT & SESSIONS JUDGE, MEMBER, MACT, DODDABALLAPURA, 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 JOSHI

ORAL JUDGMENT

Heard the learned counsel for appellant and the learned counsel for respondent No.2/insurance company.

2. Being aggrieved by the judgment in MVC No.655/2015 dated 07.03.2017 passed by the learned IV Additional District & Sessions Judge and MACT, Doddaballapura, Bengaluru Rural District, the appellant is before this Court in appeal seeking enhancement of the compensation.

3. The factual matrix of the case is that on 26.06.2015 at about 7.00 p.m., when the appellant was traveling on his motorcycle bearing registration No.KA-43-



E-9252, the tractor bearing registration No.KA-40-T-7043 carrying a water tank, dashed to the appellant due to which he fell down and sustained injuries. He sustained fracture of right femur, fracture of right tibia and fracture of left tibia, for which he took treatment in hospital and he was inpatient for 20 days. The accident had occurred due to negligence on the part of the driver of tractor and therefore, the appellant filed claim petition against the owner and insurer of the tractor seeking adequate compensation. The appellant also contended that he was earning Rs.30,000/- p.m., and he was running a handloom machineries industry and due to the accident, he has suffered disability resulting in depreciation of his income.

4. On service of notice, respondent Nos.1 and 2 appeared through their counsel and the petition was resisted by both of them. They contend that there was no negligence on the part of the driver of the tractor and respondent No.2/insurance company disputed its liability on the ground that the terms and conditions of policy were



violated by the driver. *Inter alia*, both of them contended that the compensation claimed is highly exorbitant, imaginary and untenable.

5. Appropriate issues were framed by the Tribunal and the appellant was examined as PW.1 and the doctor who has assessed his disability was examined as PW.2. Exs.P1 to P62 were marked. Respondent No.2/insurance company examined its official as RW.1 and one document was marked. After hearing the arguments, the Tribunal held the income of the injured at Rs.6,000/- p.m., deducting one-third of his personal expenses and then calculated a compensation of Rs.3,17,397/- under different heads as shown below:

Sl. No.	Particulars	Amount
1	Pain and suffering injuries	Rs. 60,000/-
2	Loss of amenities	Rs. 10,000/-
3	Medical expenses	Rs. 41,797/-
4	Nourishment food	Rs. 2,000/-
5	Attendance charges	Rs. 4,000/-
6	Conveyance	Rs. 8,000/-
7	Loss of income in treatment and laid up period	Rs. 18,000/-



8	Permanent loss of income	Rs.1,53,600/-
9	Future medical expenses	Rs. 20,000/-
	Total	Rs.3,17,397/-

6. Being aggrieved, the appellant is before this Court in appeal, seeking enhancement.

7. Learned counsel for appellant submitted that the income of the appellant has been taken by the Tribunal at Rs.6,000/- which is abysmally low and not even meet the standards of Minimum Wages Act. It is submitted that the Tribunal could not have deducted 1/3rd towards personal expenses of the appellant since it is an injury case and such deduction do not have any legally acceptable reason. It is also pointed out that compensation awarded under other heads are also on the lower side and when there is fracture to both the legs, it was incumbent upon the Tribunal to consider the disability as stated by PW.2 which is to the extent of 37.4%. Therefore, the reassessment of compensation is prayed by the appellant.



8. Per contra, learned counsel for respondent No.2/insurance company contends that the compensation awarded by the Tribunal is just and adequate and there is no need for any indulgence by this Court. Though the learned counsel supports the determination of compensation awarded by the Tribunal, she fairly submits that the Tribunal could not have deducted personal expenses in case of personal injury.

9. A careful perusal of records reveals that the appellant has sustained the following injuries:

- (i) Type II OPEN (compound) Distal fracture of right femur
- (ii) Type I OPEN fracture of proximal tibia of right leg
- (iii) Fracture proximal tibia of left leg.

First two injuries were treated with open reduction, implants and the fracture to the left tibia was treated conservatively. PW.2-Doctor after assessment of disability of the appellant, came to the conclusion that there is 74.8% disability, together for both lower limbs which is about 37.4% to the whole body.



10. It is pertinent to note that, it is settled principles of law that the assessment of the whole body disability is not in the domain of medical officer but he can only give physical disability to particular limb. The assessment of the functional disability is to be made by the Tribunal since the Tribunal alone can ascertain the avocation of the appellant and the resultant effect of the injury to the limb on the avocation of the injured person. Therefore, considering the fact that the appellant had suffered fracture of femur as well as tibia of the right leg and fracture of tibia of the left leg, the disability given by PW.2-Doctor to the extent of 74.8% has to be considered to be for both the lower limbs. The bifurcation of the disability to the left lower limb and right lower limb is not available in his deposition. This Court has noticed that there was no such implant which was used for treating injury to the left lower limb and in that view of the matter, this Court is of the view that the functional disability of the appellant has to be considered in the light of the nature of the injuries and the avocation stated by him. Though



there is no documentary evidence to show that the nature of avocation as pleaded by the appellant, it can fairly be stated that he was also looking after his agricultural properties for which the documents are produced at Exs.P18 and P19. In the considered view of this Court, the functional disability has to be taken at 22% by noting that he may be moving for the purpose of his business also which he has stated in his statement.

11. There being no proof of income, the notional income has to be considered by this Court. The guidelines issued by the Karnataka State Legal Services Authority for the purpose of settlement of disputes before the Lok Adalat has prescribe the notional income of Rs.9,000/- p.m. for the year 2015. In umpteen number of judgments, this Court has held that the guidelines issued by the Karnataka State Legal Services Authority are in general conformity with the wages fixed under the Minimum Wages Act. Therefore, the loss of income due to disability is calculated as $9,000 \times 12 \times 22 / 100 \times 16$



=**Rs.3,80,160/-** by adopting multiplier of '16' for the age of 35 years.

12. As a consequence taking laid up period to be 4 months in view of fracture to both the lower limbs, the same is calculated at $\text{Rs.}9,000 \times 4 = \textbf{Rs.36,000/-}$.

13. The Tribunal has awarded a sum of $\text{Rs.}10,000/-$ towards loss of amenities in life. This Court notices that the appellant had sustained injury to both the legs and this would haunt him for the rest of his life. Therefore, the same is enhanced to **Rs.40,000/-**.

14. The Tribunal has awarded a sum of $\text{Rs.}14,000/-$ towards nourishment food, attendant charges and conveyance expenses. The appellant was inpatient for 20 days, therefore, the same is enhanced to **Rs.25,000/-**. The appellant was operated and there are two implants which are used for fracture of femur as well as tibia. In that view of the matter, the future medical expenses is calculated at $\text{Rs.}20,000 \times 2 = \textbf{Rs.40,000/-}$.



15. The compensation awarded by the Tribunal towards pain and suffering and medical expenses do not require any interference. Hence, the appellant is entitled for total sum of **Rs.6,22,957/-** under the following heads:

Sl. No.	Particulars	Amount
1	Pain and suffering injuries	Rs. 60,000/-
2	Loss of amenities	Rs. 40,000/-
3	Medical expenses	Rs. 41,797/-
4	Nourishment food, attendance charges and conveyance	Rs. 25,000/-
7	Loss of income in treatment and laid up period	Rs. 36,000/-
8	Permanent loss of income	Rs.3,80,160/-
9	Future medical expenses	Rs. 40,000/-
	Total	Rs.6,22,957/-
	Less awarded by the Tribunal	Rs.3,17,397/-
	Enhancement	Rs.3,05,560/-

16. In view of the above, the appeal deserves to be allowed in part. Hence, the following:

ORDER

- i. The appeal is ***allowed in part.***
- ii. The appellant is entitled for a sum of **Rs.3,05,560/-** in addition to what has been awarded by the Tribunal



NC: 2026:KHC:1013
MFA No. 5016 of 2017

along with 6% interest per annum from the date of
petition till its deposit.

- iii. Rest of the order passed by the Tribunal remain
unaltered.

Sd/-
(C M JOSHI)
JUDGE

SSD
List No.: 1 Sl No.: 10