



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.4682 OF 2023(MV-I)

BETWEEN:

SRI SHIVAKUMAR.L
S/O LAKSHMANA
AGED ABOUT 28 YEARS
R/AT GOPAHALLI VILLAGE
BIDADI HOBIL
RAMANAGARA TALUK & DIST-5621020

...APPELLANT

(BY SRI. K.P BHUVAN, ADVOCATE)

AND:

1. SRI JAIVIR BANIWAL
S/O SURAJBHAN BENIWAL
AGED ABOUT 50 YEARS
TCP GATE, KOHIMA NAGALAND
NAGALAND, INDIA-797001

ALSO
SRI JAIVIR BENIWAL
S/O SURAJBHAN BENIWA
FL.NO. T2 60, GM INFINITY
HESARGHATTA MAIN ROAD
VTC MALLASANDRA POST
DASARAHALLI SUB-DISTRICT
BENGALURU NORTH

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:32034-DB
MFA No. 4682 of 2023

BANGALORE-560057
(R.C. OWNER OF LORRY BEARING
REG. NO. N-01-Q-6157)

2. RELIANCE GENERAL INSURANCE CO.LTD
THE BRANCH MANAGER
NO 28, CENTENARY BUILDING
5TH FLOOR, SOUTHERN PORTION EST WIN
M.G ROAD, BANGALORE-560 001

(INSURER OF LORRY BEARING REGSITRARTON
NO. NL -01-Q-6157)
(POLICY NO 140122123340015497)
VALID FROM 18-09-2021 TO 17-09-2022

...RESPONDENTS

(BY SRI. H.C. BETSUR, ADVOCATE FOR R2,
VIDE ORDER DATED 12/12/2023, NOTICE TO R1 IS
DISPENSED WITH)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DT.04.05.2023 PASSED IN MVC
NO.5654/2021 ON THE FILE OF THE VIII ADDITIONAL SMALL
CAUSES JUDGE, ACMM, MEMBER AND THE MACT, BENGALURU,
(SCCH-5), PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT

and

HON'BLE MR. JUSTICE RAJESH RAI K



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE RAJESH RAI K)

The claimant, being dissatisfied with the compensation awarded in judgment and award dated 04.05.2023 in M.V.C. No.5654/2021 on the file of the VIII Addl. Small Causes Judge and ACMM and Addl. MACT., Bengaluru, (SCCH-5) (for short, "the Tribunal"), is before this Court seeking enhancement of compensation.

2. The brief facts of the case are that the claimant filed claim petition under Section 166 of the Motor Vehicles Act, claiming compensation for the accidental injuries that he suffered in a road traffic accident occurred on 19.11.2021 involving motorcycle bearing registration No.KA-41-EN-9823 and lorry bearing registration No.NL-01-Q-6157. It is stated that the claimant sustained grievous injuries, which resulted in amputation below knee of left lower limb. It is further claimed that the injured-claimant was working as an employee in Manappuram Finance Limited and earning a sum of Rs.20,000/- per month.



3. On service of notice, respondent No.1-owner of the offending vehicle remained absent and was placed *ex parte*. Respondent No.2-Insurance Company appeared and filed its statement inter alia denying the claim petition averments. Further, it denied the allegation that the accident occurred solely due to the rash and negligent driving of the driver of the offending lorry.

4. On behalf of claimant-injured, he himself examined as PW.1 and marked 28 documents as Exs.P1 to P28. Further, he examined PWs.2 to 4. On behalf of respondent No.2-Insurance Company, its Legal Manager was examined as RW.1 and marked 5 documents as Exs.R1 to R5.

5. The Tribunal, on appreciation of the material on record, awarded total compensation of Rs.14,57,369/- along with 6% interest per annum from the date of petition till realization excluding interest on Rs.75,000/- awarded towards future medical expenses, on the following heads:

Sl.No.	Compensation under different Heads	As awarded by the Tribunal (Rs.)
1.	Loss of Future Income	11,12,800



2.	Pain, shock and suffering	50,000
3.	Conveyance, nourishment and attendant charges	25,000
4.	Medical expenses	1,33,569
5.	Loss of amenities	25,000
6.	Loss of income during the laid up period	36,000
7.	Compensation towards Prosthesis	75,000
Total		14,57,369/-

6. While awarding the above compensation, the Tribunal assessed the income of the claimant at Rs.18,183/- per month and assessed the functional disability at 30%. The Tribunal awarded compensation towards prosthesis only to the extent of Rs.75,000/-. Aggrieved by which, the claimant is before this Court.

7. Heard learned counsel Sri. K.P.Bhuvan for the claimant-appellant and learned counsel Sri.H.C.Betsur for respondent No.2-Insurance Company. Perused the entire appeal papers and the Tribunal records.



8. Learned counsel for the appellant would submit that the Tribunal has committed grave error in assessing the functional disability of the appellant-claimant at 30%, despite the fact that the claimant suffered complete degloving injury of left ankle and foot with loss of tibia, fibula and metatarsals and ultimately underwent below-knee amputation of the left lower limb. It is his contention that PW.4-Doctor has assessed the permanent physical disability of the left lower limb at 70% and whole body disability at 50%. Therefore, the Tribunal was not justified in restricting the loss of earning capacity to 30%.

9. Learned counsel would further submit that the claimant was working as an employee in Manappuram Finance Ltd. and the Tribunal, though accepted the monthly income at Rs.18,183/-, failed to add future prospects while calculating the compensation under the head of loss of future income. He would submit that since the claimant has suffered more than 20% disability, in terms of the law laid down by this Court in **NEW INDIA ASSURANCE COMPANY LTD. VS. ABDUL TAHSILDAR & OTHERS** in **MFA NO.103807/2016** and since the claimant was aged 28 years as on the date of accident, in



terms of the law laid down by the Hon'ble Apex Court in ***NATIONAL INSURANCE COMPANY LIMITED Vs PRANAY SETHI***, reported in ***(2017) 16 SCC 680***, 40% of the income ought to have been added towards future prospects. Accordingly, the monthly income after addition of future prospects would come to Rs.25,456/-.

10. Learned counsel would further submit that the Tribunal has awarded only a sum of Rs.75,000/- towards artificial limb, though PW.4-Doctor has specifically deposed that the claimant requires a sophisticated below-knee prosthesis which costs several lakhs. He would therefore pray for enhancement of compensation under the said head as well under other heads.

11. *Per contra*, learned counsel appearing for respondent No.2-Insurance Company would submit that the Tribunal, on appreciation of the material available on record, has awarded just and reasonable compensation and the same does not warrant interference. He would submit that the claimant continues to be employed and therefore, the Tribunal



is justified in taking the functional disability at 30%. He would accordingly pray for dismissal of the appeal.

12. Having heard the learned counsel for the parties and on perusal of the entire appeal papers including the Tribunal records, the following points would arise for consideration:

i. Whether the functional disability assessed by the Tribunal requires interference?

ii. Whether the claimant is entitled to addition of future prospects while computing loss of future income?

iii. Whether the compensation awarded by the Tribunal under different heads requires enhancement?

The answer to all the above points would be in the affirmative for the following reasons:

13. The accident that occurred on 19.11.2021 involving motorcycle bearing registration No.KA-41-EN-9823 and lorry bearing registration No.NL-01-Q-6157 and the injuries sustained by the claimant in the said accident are not in dispute in this appeal.



14. In terms of Ex.P.6-Wound Certificate and discharge summary, the claimant had sustained complete degloving injury of left ankle and foot with loss of tibia, fibula and 2nd to 5th metatarsals and ultimately underwent below-knee amputation of the left lower limb. PW.4-Doctor has assessed the permanent disability at 70% to the left lower limb and whole body disability at 50%. Though the Tribunal has accepted the injuries suffered by the claimant, it has assessed the loss of earning capacity at only 30%. The claimant was admittedly working as an employee in Manappuram Finance Ltd. Though the Doctor has stated that the claimant can continue his work with certain difficulties, the fact remains that the claimant has suffered amputation below the knee at a young age of 28 years. Such disability would definitely affect his mobility, efficiency and future prospects in employment. Therefore, taking into consideration the nature of injuries and the avocation of the claimant, this Court deems it appropriate to assess the functional disability at 50%.

15. The Tribunal has accepted the monthly income of the claimant at Rs.18,183/-. However, while calculating loss of



future income, no addition has been made towards future prospects. In view of the law laid down by the Hon'ble Apex Court in **PRANAY SETHI** (*supra*), the claimant, being aged 28 years, is entitled to addition of 40% towards future prospects. Accordingly, the monthly income after addition of future prospects would come to Rs.25,456/-. Therefore, the claimant would be entitled to compensation under the head of loss of future income at Rs.25,96,512/- ($\text{Rs.25,456} \times 12 \times 17 \times 50\%$) as against Rs.11,12,800/- awarded by the Tribunal.

16. The Tribunal has awarded a sum of Rs.75,000/- towards artificial limb. PW.4-Doctor has deposed that the claimant requires a sophisticated below-knee prosthesis, which costs several lakhs. Taking note of the age of the claimant and the necessity for replacement and maintenance of prosthesis from time to time and in view of the law laid down in **PRAHLAD SAHAI V. HARYANA ROADWAYS AND ANOTHER**, reported in **2026 SCC Online SC 651**, this Court deems it appropriate to assume the lifespan of the claimant as 70 years and to award a global compensation of Rs.10,00,000/- towards prosthesis.



However, the claimant shall not be entitled to interest on the said amount.

17. The compensation awarded on the heads of pain, shock and suffering, attendant charges, medical expenses and conveyance are just and proper and needs no interference. However, taking note of the nature of injuries and period of treatment, the claimant would be entitled to Rs.54,549/- rounded off to Rs.54,550/- (18,183 x 3 months) towards loss of income during the laid up period treating the laid up period as three months and additional sum of Rs.25,000/- towards loss of amenities.

18. Thus, the claimant would be entitled to compensation under different heads as follows:

Sl.No.	Compensation under different Heads	As awarded by the Tribunal (Rs.)	As awarded by this Court (Rs.)
1	Pain, shock and suffering	50,000	50,000
2	Loss of amenities	25,000	50,000
3	Loss of income during laid-up period	36,000	54,550



4	Attendant charges, nourishment and conveyance	25,000	25,000
5	Medical expenses	1,33,569	1,33,569
6	Compensation towards Prosthesis	75,000	10,00,000
7	Loss of Future Income	11,12,800	25,96,512
	Total	14,57,369	39,09,631

19. Accordingly, the claimant would be entitled to total compensation of Rs.39,09,631/- as against Rs.14,57,369/- awarded by the Tribunal together with interest at 6% per annum from the date of petition till realization excluding interest on the amount of Rs.10,00,000/- awarded towards prosthesis.

20. In modification of the judgment and award passed by the Tribunal, respondent No.2-Insurance Company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within six weeks from the date of receipt of a certified copy of this judgment. The insurer shall be entitled to recover the amount from respondent No.1-owner in accordance with law.



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Accordingly, the appeal is ***allowed*** in part.

SD/-
(S.G.PANDIT)
JUDGE

SD/-
(RAJESH RAI K)
JUDGE

PKS
List No.: 1 Sl No.: 36