



CNR: KAHC010345202016

NC: 2026:KHC:41700
MFA No. 5108 of 2016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 5108 OF 2016 (MV-I)

BETWEEN:

SRI BABU SHETTY
S/O MANJAYYA SHETTY,
AGED ABOUT 36 YEARS,
REPRESENTED BY HIS NEXT FRIEND
SMT. BABY SHEDTHY,
W/O MANJAYYA SHETTY,
AGED ABOUT 54 YEARS,
R/A "NEERANI MANE"
SALWADI VILLAGE AND POST
KUNDAPURA TALUK,
UDUPI DISTRICT-576 201.

...APPELLANT

(BY SRI. PRASANNA B R., ADVOCATE)

AND:

Digitally signed by
PADMASHREE
SHEKHAR DESAI
Location: High
Court of
Karnataka

1. SRI RAVI
S/O LATE SANJEEVA,
AGED ABOUT 38 YEARS
R/O PATEL HOUSE,
KUNDAPURA KASBA & TALUK
UDUPI DISTRICT - 576 201.
2. M/S NEW INDIA INSURANCE CO. LTD.,
I FLOOR, "PUSHPA BUILDING",
MAIN ROAD, KUNDAPURA,
PIN-576 201
REPRESENTED BY ITS BRANCH MANAGER.

...RESPONDENTS



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(BY SRI. C R RAVISHANKAR., ADVOCATE FOR R2,
R1 IS SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 24.02.2016 PASSED IN MVC NO.688/12 ON THE FILE OF THE ADDITIONAL DISTRICT & SESSIONS JUDGE, UDUPI, (SITTING AT KUNDAPURA), KUNDAPURA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

ORAL JUDGMENT

This appeal is filed by the appellant/claimant under Section 173(1) of Motor Vehicles Act, 1988 challenging the judgment and award dated 24.02.2016 passed in MVC No.688/12 on the file of the Additional District & Sessions Judge, Udupi, for enhancing the compensation.

2. Heard the arguments of the learned counsel for the appellant and learned counsel for respondent No.2. The ranks of the parties are retained as per tribunal for the sake of convenience.



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3. Injured claimant met with an accident on 25.02.2012 and filed claim petition claiming compensation of Rs. 23,49,000/-. The Tribunal considering the entire evidence on record granted an amount of Rs.12,77,668/- with interest at the rate of 8% per annum from date of petition till realisation.

4. Aggrieved by the said order, he preferred an appeal and mainly contended that he was aged 32 years working as a photographer and earning Rs.15,000/- per month. He sustained grievous injuries and examined the doctors and they assessed the disability as 100%. But the tribunal has taken the disability as 50% without any basis and granted meager amounts under the other heads and interest is to be increased.

5. Learned counsel for respondent counsel stated that the neurosurgeon was not examined before the tribunal and hence tribunal rightly considered the disability



as 50% and the amount granted by the tribunal is to be confirmed.

6. Heard the arguments of both counsel.

7. Though petitioner stated that he was working as a photographer and earning Rs.15,000/- per month and running a shop, he has not filed any documents to prove his income. As he met with an accident in the year 2012, this court finds that it is just and reasonable to take his notional income as Rs.7,000/- per month, as per the chart prepared by Karnataka State Legal Services Authority. He was aged 32 years and the relevant multiplier is 16. Petitioner filed Ex.P4/wound certificate and Ex.P6/inpatient bills and also disability certificate under Ex.P13 and case sheet under Ex.P14 and examined two doctors. PW2 is a Medical Legal Consultant and he stated that the petitioner was diagnosed with head injury, was treated conservatively and discharged. He further stated that he



along with neurosurgeon of the hospital had examined the injured and found the following problems,

- 1) Very severe ataxia,
- 2) Diplopia (double vision),
- 3) Dysarthria,
- 4) Loss of smell and taste, and
- 5) Loss of front lower teeth

and assessed the permanent physical disability of 100% with respect to the whole body. However, Dr.A.Raja who treated the injured has not stepped into the witness box and tendered evidence. As per Ex.P13/Disability certificate it is mentioned that he is facing difficulty in walking, speech, overall the tribunal found that he was suffering from atleast 40-50% disability to the whole body.

8. The Tribunal observed that as the doctor who treated him has not stepped into the witness box and Tribunal has taken only 50% of the disability. Learned counsel for the respondent stated that neurosurgeon is to



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be examined for assessing the said disability. But in the evidence of PW2 he clearly stated that he along with a neurosurgeon treated him and arrived to the conclusion that there is disability of 100%. As per the citation reported **2026 SCC Online SC 433** in case of **R. Halle Vs Reliance General Insurance Company Limited** and also in case of **Raj Kumar Vs Ajay Kumar** reported in **(2011) 1 SCC 343**, this court considering the medical evidence on record finds that it is just and feasible to take the disability as 100%. Loss of future earning capacity comes to Rs.7,000/- and as the disability is more than 20% petitioner is entitled for future prospects as per the judgment in the case of **New India Assurance Company Limited Vs. Abdul, son of Mehaboob Tahasildar and Others** (M.F.A. No.103807/2016 c/w. M.F.A. No.103835/2016 decided on 27.05.2022). As he is aged 32 years, he is entitled for 40% towards future prospects. So loss of future earning capacity comes to Rs.7,000 + $40\% \times 12 \times 16 \times 100\%$. = **Rs.18,81,600/-** and he was



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admitted in the hospital for a period of 6 months. Considering the nature of injuries, period of hospitalisation, his occupation and other relevant factors, this Court finds that Tribunal already granted an amount of **Rs.75,000/-** towards pain and suffering, **Rs.50,000/-** for loss of amenities, **Rs.75,000/-** for attendant charges and **Rs.25,000** for nourishment and diet charges and the said amounts are confirmed. Tribunal granted **Rs.88,668/-** towards medical expenses and also **Rs.50,000/-** towards future medical expenses and the said amounts are confirmed. The total compensation

9. Thus in all, components awarded by this court are as below,

Sl.Nos.	Particulars	Amount in Rs.
1	Loss of future earning capacity	18,81,600
2	Pain and suffering	75,000
3	Loss of amenities	50,000
4	Nourishment and attendant charges.	75,000



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5	Medical expenses	88,668
6	Future medical expenses	50,000
	Total	22,20,268

Hence, the compensation granted by tribunal is enhanced from Rs.12,77,668/- to **Rs.22,20,268/-** along with interest at the rate of 6% p.a.

10. In the result, the following order is passed:

ORDER

- i. Appeal is ***allowed*** in part.
- ii. The judgment and award dated 24.02.2016 passed in MVC No.688/12 on the file of the Additional District & Sessions Judge, Udupi, is modified.
- iii. The claimant is entitled to a sum of **Rs.22,20,268/-** along with interest at 6% p.a., from the date of petition till the date



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of realization, instead of Rs.12,77,668/-
granted by the tribunal.

- iv. Respondent/Insurance Company has already deposited the awarded amount before the tribunal. Therefore, respondent/Insurance Company is directed to deposit the enhanced compensation of **Rs.9,42,600/-** along with the interest at the rate of 6% within one month from the date of this order.
- v. On such deposit, claimant is permitted to withdraw the entire amount along with interest accrued on the same.

Sd/-
(P SREE SUDHA)
JUDGE

AKV
CT:NR
List No.: 1 Sl No.: 58