



CNR: KAHC010351072026

NC: 2026:KHC:53064
MFA No. 3618 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 3618 OF 2026

(MV-I)

BETWEEN:

MR THIMMAPPA
S/O. LATE BABU POOJARY
AGED 85 YEARS
R/AT D.No.7-120/8, KALKAR
GOLIJAR HOUSE, KANKANADY
BAJAL, MANGALURU-575 027.

...APPELLANT

(BY SMT. POOJA PARVATHI, ADVOCATE FOR
SRI G. RAVISHANKAR SHASTRY, ADVOCATE)

AND:

1. MR SUHAS
S/O. CHANDRASHEKAR
AGED 22 YEARS
R/AT D.No.3-26-2154
KADRI TEMPLE NEW ROAD
POST KADRI, MANGALURU
D.K. PIN - 575 002.
2. SBI GENERAL INSURANCE CO.LTD.,
BRANCH OFFICE AT:SHOP No.4 AND 5
1ST FLOOR, INLAND ORNATE
NAVABHARATH CIRCLE
MANGALURU KARNATAKA



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REPRESENTED BY ITS BRANCH MANAGER
PIN-575 003.

...RESPONDENTS

(BY SRI. ANIKETH KUNIKULLAYA U, ADVOCATE FOR R1
SRI A N KIRHSNA SWAMY, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:06.1.2026 PASSED IN MVC No.1932/2022 ON THE FILE OF THE MEMBER MACT-III AND II ADDITIONAL DISTRICT AND SESSIONS JUDGE, DAKSHINA KANNADA, MANGALURU, 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 SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed by the claimant challenging the judgment and award dated 06.01.2026 passed in MVC No.1932/2022 by II Additional District Judge and member MACT-III, Mangaluru.

2. Even though the appeal is listed today for admission, it is taken up for disposal with the consent of learned counsel for appellant and learned counsel for respondents.

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3. The appellant -claimant made a claim petition playing to award compensation for the injuries sustained by him in a road traffic accident occurred on 25.04.2022, contending that accident occurred due to the rash and negligent driving of rider of the scooter bearing registration No.KA-19/X-5821. The Tribunal after recording evidence, appreciating the evidence on record has awarded global compensation of Rs.50,000/- and further held that the claimant has contributed to the accident and assessed his contributory negligence at 50% and awarded Rs.25,000/- (50% of Rs.50,000/-) with interest at the rate of 6% per annum from the date of petition till realization and directed respondent No.2 – insurer is liable to pay the compensation amount. The claimant challenging contributory negligence and enhancement of compensation has filed the present appeal.

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4. Heard learned counsel for the appellant and learned counsel for respondent No.2 –insurer.

5. Learned counsel for the appellant would contend that the claimant was aged 81 years and he was crossing road at that time accident occurred. The road is having 30 feet width and there was sufficient space for the rider of the scooter to pass through. There are no brake/tyre marks on the road. Considering said aspects, the Tribunal has erred in attributing contributory negligence on the part of the claimant at 50%. She further submits that the claimant has sustained 06 injuries. Out of them, 02 are grievous in nature and 04 are simple injuries. Considering the same, the compensation awarded is on lower side. The claimant is entitled to compensation towards pain and suffering, loss of amenities, attendant charges, loss of income during laid up period. She further submitted that the claimant has incurred medical expenses of Rs.10,565/- as per Ex.P9 - bill and the claimant has been admitted in the hospital



between 25.04.2022 to 17.05.2022 for a period of about 23 days. With this she prayed to allow the appeal.

6. Learned counsel for respondent No.2 -insurer would contend that the road on which accident took place is national highway and on the spot there is no zebra crossing or crossing the road by the pedestrian. The Karnataka Traffic Control (Regulation of Traffic on Highways) Rules, 1979, Rule 5(4) prohibits a pedestrian from crossing any highway, except at the demarcated pedestrian crossing, wherever they exist. Therefore, the claimant is contributed to the accident by crossing the highway. Considering the same, the Tribunal has rightly attributed contributory negligence at 50%. He further submits that the claimant has taken conservative treatment for the injuries sustained by him and it is in Government Hospital. The compensation awarded by the Tribunal is just and proper and there are no grounds for enhancement. With these, he prays to dismiss the appeal.

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7. Having heard learned counsels, the Court has perused impugned judgment, award and other materials placed on the records.

8. The following points arise for consideration:

- i) Whether the Tribunal is justified in attributing contributory negligence on the part of the claimant at 50%?
- ii) Are there any grounds for enhancement of compensation awarded by the Tribunal?

Reasons to point No.1: The accident occurred on 25.04.2022 at 12.45 p.m. The sketch of the spot of accident is at Ex.P.6 and Mahazar is at Ex.P5. The sketch indicates that the road on which accident took place is National Highway No.66 and there is median in between the road. The spot of the accident is near to the said median at a distance of 5 feet. The claimant was crossing the said road. He has covered distance of 25 feet and at that time the accident occurred. The said spot where the

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claimant was crossing is not zebra crossing. There is no cross road at the spot of the accident. Sub Rule (4) of Rule 5 of Karnataka Traffic Control (Regulation of Traffic on Highway) Rules, 1979, reads as under:

"Rule 5 (4): No pedestrian shall cross any highway except at the demarcated pedestrian crossings wherever they exist. Pedestrians shall obey all reasonable directions given by the police at those crossings."

As per the said rule, the pedestrian shall not cross any highway except at the demarcated pedestrian crossing, wherever they exist. In the spot of accident, there is no demarcated pedestrian crossing and the road on which accident took place is national highway. Considering the said aspect, the Tribunal has rightly attributed contributory negligence on the part of the claimant at 50%. Accordingly, point No.1 is answered.

9. Reasons to point No.2: The claimant has sustained 06 injuries and out of them, 02 injuries are

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grievous in nature and 04 are simple injuries. The claimant has taken treatment in the hospital between 25.04.2022 to 17.05.2022 for a period of 23 days and he has incurred medical expenses of Rs.10,565/- as per Ex.P9 -bill. As per Ex.P8 wound certificate, the claimant has sustained the following injuries:

- i) Multiple abrasion on the face largest bung on the forehead and abrasion above the right eyebrow.
- ii) Periorbital oedema with ecchymosis notes on right eye
- iii) Abrasion noted on bridge of the nose
- iv) Swelling on right shoulder with abrasion
- v) Tenderness and swelling present in right knee
- vi) Deformity notes on right leg and right proximal tibia deformity with reduction of movement.

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Out of the said injuries, injury Nos.2 and 6 are stated to be grievous in nature. Considering the said injuries, the claimant is entitled to compensation towards pain and suffering in a sum of Rs.60,000/- and loss of amenities in a sum of Rs.25,000/-. The claimant is also entitled to medical expenses of Rs.10,565/- as per bill –Ex.P9. The claimant has been admitted in hospital for 23 days and therefore, he is entitled to attendant and conveyance charges, food and nourishment in a sum of Rs.23,000/- (Rs.1,000/- x 23 days). Considering the said injuries, the claimant has to take rest at least for 02 months and therefore, he is entitled to loss of income during laid up period for 02 months in a sum of Rs.31,000/- (Rs.15,500/- x 2 months).

10. In view of the above, the claimant is entitled to total compensation under various heads as under:

Sl.No.	Heads	Amount in (Rs.)
01.	Towards Pain and Suffering	60,000/-
02.	Towards Medical Expenses	10,565/-/-
03.	Towards attendant and	23,000/-

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	conveyance charges, food and nourishment	
04.	Towards loss of amenities	30,000/-
05.	Towards loss of income during laid up period	31,000/-
Total		1,54,565/-

Out of the said total compensation, the claimant is entitled to 50% i.e., Rs.77,282.5/- rounded of Rs.77,283/- . Therefore, the claimant is entitled to enhanced compensation of Rs.52,283/- (Rs.77,283/- less Rs.25,000/-) with interest at the rate of 6% per annum from the date of petition till realisation. Respondent No.2 - insurer is liable to pay the said enhanced compensation with interest.

11. In view of the above, the following

ORDER

- i) The appeal is ***allowed in part.***
- ii) The appellant is entitled to enhanced compensation of Rs.52,283/- with interest at

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the rate of 6% per annum from the date of
petition till realization.

iii) Respondent No.2 shall deposit the said
enhanced compensation with interest before
the Tribunal within a period of 06 weeks from
this day.

iv) The appellant is entitled to release of entire
enhanced compensation amount.

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(SHIVASHANKAR AMARANNAVAR)
JUDGE

DSP
List No.: 1 Sl No.: 28
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