



CNR: KAHC010359462017

NC: 2026:KHC:50833
MFA No. 5565 of 2017
C/W MFA No. 7101 of 2016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.5565 OF 2017(MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO.7101 OF 2016(MV-I)

IN MFA No. 5565/2017

BETWEEN:

SURESH KUMAR M S
@ SURESH M S,
S/O SIDDAPPA,
AGED ABOUT 38 YEARS,
R/AT APPAJAPPANA PALYA,
HAMLET OF MAKANAHALLI,
HEBBUR HOBLI,
TUMKUR DISTRICT - 572 120.

...APPELLANT

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka

(BY SRI SHANTHARAJ K., ADVOCATE)

AND:

1. NAGESH G
S/O GANGANNA,
AGE ABOUT 38 YEARS,
R/AT 3RD MAIN, 2ND CROSS,
SHANTHINAGAR,
TUMKUR - 572 101.
2. THE ORIENTAL INS. CO.LTD.,
REP BY ITS MANAGER
TGMA BUILDING,



CNR: KAHC010359462017

NC: 2026:KHC:50833
MFA No. 5565 of 2017
C/W MFA No. 7101 of 2016

J.C.ROAD,
TUMKUR TOWN - 572 101.

...RESPONDENTS

[BY SRI V B SIDDARAMAIAH, ADVOCATE FOR R1 (AB);
SRI A.N.KRISHNASWAMY, ADVOCATE FOR R2]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 15.07.2016 PASSED IN MVC
NO.1508/2014 ON THE FILE OF THE 2ND ADDITIONAL
DISTRICT JUDGE, MACT, TUMKUR, PARTLY ALLOWING THE
CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

IN MFA NO.7101/2016

BETWEEN:

SRI NAGESH G
S/O GANGANNA
AGED ABOUT 37 YEARS,
R/AT 3RD MAIN, 2ND CROSS,
SHANTHINAGAR,
TUMKUR - 577 101.

...APPELLANT

[BY SRI V B SIDDARAMAIAH, ADVOCATE (AB)]

AND:

1. THE ORIENTAL INSURANCE CO. LTD.,
T.G.M.A. BUILDING,
J.C. ROAD,
TUMKUR-572 101
REP BY ITS BRANCH MANAGER.
2. SRI SURESHKUMAR M.S.,
@ SURESH M.S.,



CNR: KAHC010359462017

NC: 2026:KHC:50833
MFA No. 5565 of 2017
C/W MFA No. 7101 of 2016

S/O SIDDAPPA,
AGED ABOUT 37 YEARS,
R/O APPAJAPPANAPALYA,
HAMLET OF MAKANAHALLI,
HEBBURL HOBLI- 572 120,
TUMKUR TALUK & DISTRICT.

...RESPONDENTS

[BY SRI A.N.KRISHNA SWAMY, ADVOCATE FOR R1;
SRI K.SHANTHARA], ADVOCATE FOR R2]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 15.07.2016 PASSED
IN MVC NO.1508/2014 ON THE FILE OF THE II
ADDITIONAL DISTRICT JUDGE, MACT, TUMKUR,
AWARDING COMPENSATION OF Rs.5,17,166/- WITH
INTEREST @ 6% P.A. FROM THE DATE OF PETITION TILL
REALIZATION.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 15.07.2016
passed by II Additional District Judge and MACT, Tumkur
(**'Tribunal'**) in MVC no.1508/2014, these appeals are filed.



NC: 2026:KHC:50833
MFA No. 5565 of 2017
C/W MFA No. 7101 of 2016

CNR: KAHC010359462017

2. MFA no.5565/2017 is filed by claimant for enhancement of compensation, while MFA no.7101/2016 is filed by owner of vehicle challenging finding on liability.

3. Brief facts leading to these appeals as stated are that at 6:15 p.m. on 09.09.2014, when claimant after completion of school was returning to his village on motorcycle no.KA-06/EL-1354, near Geddalahalli junction driver of Tipper Lorry no.KA-18/C-1818 drove it in rash and negligent manner and it dashed against his motorcycle. In accident, claimant sustained grievous injuries and despite treatment at Adhitya Orthopedic and Trauma Centre, he did not recover fully and sustained permanent disability/loss of earning capacity. Claiming compensation, he filed claim petition under Section 166 of Motor Vehicles Act, 1988 ('**MV Act**') against owner and insurer of Lorry.

4. On contest, wherein claim petition was opposed on all grounds including violation of terms and conditions of policy, Tribunal framed issues and recorded evidence.



CNR: KAHC010359462017

NC: 2026:KHC:50833
MFA No. 5565 of 2017
C/W MFA No. 7101 of 2016

5. Claimant examined himself and two others including Dr.T.V.Tyagaraj as PWs.1 to 3 and got marked Exs.P1 to P17. In rebuttal, insurer examined its official as RW.1 and got marked Exs.R1 to R3.

6. On consideration, Tribunal answered issues and assessed total compensation of Rs.5,17,166/- with interest at 6% per annum and held owner liable to pay compensation and dismissing claim petition against insurer.

7. Dissatisfied with quantum, claimant was in MFA no.5565/2017 while owner in MFA no.7101/2016 was challenging absolving of liability of insurer.

8. Sri K. Shantharaj, learned counsel for appellant - claimant submitted that as on date of accident, claimant was 35 years of age, working as teacher sustained Grade III compound comminuted fracture of right tibial condyle and auto amputation of 4th and 5th distal phalanxes of right hand. Under above circumstances, award of Rs.30,000/- towards pain and suffering was inadequate, no compensation awarded towards loss of income during period of treatment and even compensation



CNR: KAHC010359462017

NC: 2026:KHC:50833
MFA No. 5565 of 2017
C/W MFA No. 7101 of 2016

awarded under head of loss of amenities was inadequate as PW.3 stated about shortening of right limb by 2.5 cms.

9. It was submitted that Tribunal was not justified in holding only owner liable to pay compensation as driver of Tipper Lorry was having valid driving licence, but had renewed same and Hon'ble Supreme Court held in such circumstances, insurer would be liable to pay compensation.

10. On other hand, Sri A.N. Krishna Swamy, learned counsel for respondent no.2 - insurer opposed appeal. It was submitted, since it was not in dispute that as on date of accident i.e. 09.09.2014 driving licence of driver of insured vehicle was not current, subsequent renewal would not cure violation of policy condition and therefore, finding of Tribunal on liability did not warrant interference. It was submitted, claimant's appeal for enhancement was also not justified as Tribunal had awarded just compensation.

11. Heard learned counsel, perused impugned judgment, award and record.



CNR: KAHC010359462017

NC: 2026:KHC:50833
MFA No. 5565 of 2017
C/W MFA No. 7101 of 2016

12. Appeals are by claimant and owner respectively for enhancement of compensation and finding on liability.

Therefore, points that arise for consideration are:

1. *"Whether Tribunal was justified in holding owner liable to pay compensation and absolving liability of insurer?"*
2. *Whether claimant is entitled for enhancement of compensation?"*

Point no.1:

13. Occurrence of accident due to rash and negligent driving of insured vehicle by its driver, claimant sustaining injuries and loss of earning capacity therein are not in dispute. As per Ex.R1 - DL extract and as noted by Tribunal, driver of insured vehicle had driving license to drive heavy goods vehicle and heavy passenger vehicle upto 28.12.2006 and same was got renewed from 10.04.2010 to 09.04.2013 and again from 22.06.2015 to 21.06.2018. This would indicate that renewal of driving licence is about a year after date of accident. However, Hon'ble Supreme Court in case of **Reliance General Insurance Co. Ltd. v. Om Prakash and Ors.**, reported in **2026 SCC OnLine SC 1445**, referring to various earlier decisions has held



CNR: KAHC010359462017

NC: 2026:KHC:50833
MFA No. 5565 of 2017
C/W MFA No. 7101 of 2016

that in case driving licence of insured vehicle was not current as on date of accident and renewed later, insurer cannot be held finally liable, but held insurer liable to pay compensation to claimant in first place and thereafter recover said compensation from insured. In view of above, point no.1 is answered partly in favour of claimant. Insurer would be liable to pay compensation to claimant in first place and thereafter would be at liberty to recover same from insured without recourse to separate proceedings.

Point no.2:

14. As noted above, claimant was 35 years of age, working as teacher and sustained Grade III compound comminuted fracture of right tibial condyle and auto amputation of 4th and 5th fingers distal phalanxes of right hand. Both would be grievous injuries and award of Rs.30,000/- towards pain and suffering would not be justified. Therefore, **Rs.60,000/-** is awarded towards same. Normally fractures take about 3 months to heal. Considering same as period of layoff Rs.17,497/- X 3 = **Rs.52,491/-** therefore, claimant would be entitled for same towards loss of income during laid-up period. Tribunal has



CNR: KAHC010359462017

NC: 2026:KHC:50833
MFA No. 5565 of 2017
C/W MFA No. 7101 of 2016

awarded Rs.25,000/- towards loss of amenities. In view of disability due to fracture of right tibial condyle as well as due to amputation, it is found appropriate to enhance it to **Rs.50,000/-**. Awards of Rs.1,11,624/- towards medical expenses; Rs.5,000/- towards food and nourishment; Rs.3,35,942/- towards future loss of income; Rs.5,000/- towards transportation charges and Rs.4,600/- towards attendance charges are sustained. Thus, claimant is held entitled to enhanced compensation of **Rs.6,24,657/-**. Point no.2 is answered in favour of claimant.

15. Consequently, following:

ORDER

- i. MFA no.5565/2019 filed by claimant is ***allowed in part.***
- ii. Claimant is entitled for enhanced compensation of **Rs.6,24,657/-** with interest @ 6% per annum from date of petition till its realization, excluding delay of 233 days in filing appeal.
- iii. Insurer is liable to pay compensation in first instance and would be at liberty to



CNR: KAHC010359462017

NC: 2026:KHC:50833
MFA No. 5565 of 2017
C/W MFA No. 7101 of 2016

recover it from insured without recourse
to separate proceedings.

- iv. Balance amount, if any, is directed to
deposit before Tribunal within six
weeks.
- v. On deposit, Tribunal is directed to
released same in favour of claimant.
- vi. MFA no.7101/2016 filed by owner is
disposed of in terms of judgment in
MFA no.5565/2017.
- vii. Amount in deposit is ordered to be
transmitted to Tribunal for disbursal.

Sd/-
(RAVI V HOSMANI)
JUDGE

GRD
List No.: 1 Sl No.: 24