



CNR: KAHC010362432019

NC: 2026:KHC:51621-DB  
MFA No. 3524 of 2019  
C/W MFA No. 37 of 2020

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 21<sup>ST</sup> DAY OF SEPTEMBER, 2026**

**PRESENT**

**THE HON'BLE MRS. JUSTICE ANU SIVARAMAN**

**AND**

**THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA**

**MISCELLANEOUS FIRST APPEAL NO. 3524 OF 2019 (MV)**

**C/W**

**MISCELLANEOUS FIRST APPEAL NO. 37 OF 2020 (MV-I)**

**IN MFA No. 3524/2019**

**BETWEEN:**

THE MANAGER  
RELIANCE GENERAL INSURANCE CO. LTD.,  
NO.4/3/1 AND 3/2M, 11<sup>TH</sup> MAIN  
3<sup>RD</sup> BLOCK, JAYANAGAR  
BANGALORE

Digitally signed  
by PAVITHRA B  
Location: HIGH  
COURT OF  
KARNATAKA

NOW REP. BY ITS MANAGER  
M/S RELIANCE GENERAL INSURANCE  
COMPANY LTD., REGIONAL OFFICE  
EAST WING, 5<sup>TH</sup> FLOOR  
NO.28, CENTENARY BUILDING  
M.G.ROAD, BANGALORE-01

...APPELLANT

(BY SRI: ASHOK N PATIL, ADVOCATE)

**AND:**

1. SHRI. FRANCIS XAVIER J  
S/O JOHN BOSCO



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NOW AGED ABOUT 31 YEARS  
R/AT NO.1011, 1<sup>ST</sup> BLOCK  
JANAPRIYA TOWNSHIP  
KADABAGERE, MAGADI MAIN ROAD  
BENGALURU SOUTH TALUK

2. SHRI. VENKATESH H  
S/O HONNAPPA  
MAJOR  
R/A NO.273, 4<sup>TH</sup> CROSS  
NEAR PRIMARY SCHOOL  
ABBIGERE, CHIKKABANAVARA  
BENGALURU-560 090

...RESPONDENTS

(BY SRI: R V SHIVANANDA REDDY, ADVOCATE FOR R1;  
VIDE ORDER DATED 06.09.2021, NOTICE TO R2 IS HELD  
SUFFICIENT)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT  
AGAINST THE JUDGMENT AND AWARD DATED 13.02.2019  
PASSED IN MVC NO.3975/2017 ON THE FILE OF THE III  
ADDITIONAL JUDGE AND MEMBER, MACT, COURT OF SMALL  
CAUSES, BENGALURU (SCCH-18), AWARDING COMPENSATION  
OF RS.34,92,619/- WITH INTEREST AT 8% P.A. FROM THE  
DATE OF PETITION TILL THE DATE OF REALIZATION.

**IN MFA NO. 37/2020**

**BETWEEN:**

SHRI. FRANCIS XAVIER J  
S/O JOHN BOSCO  
NOW AGED ABOUT 31 YEARS  
R/AT NO.1011, 1<sup>ST</sup> BLOCK  
JANAPRIYA TOWNSHIP



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KADABAGERE, MAGADI MAIN ROAD  
BENGALURU SOUTH TALUK  
PIN-562 130

...APPELLANT

(BY SRI: R V SHIVANANDA REDDY, ADVOCATE)

**AND:**

1. SRI. VENKATESH H  
S/O HONNAPPA  
MAJOR  
R/A NO.273, 4<sup>TH</sup> CROSS  
NEAR PRIMARY SCHOOL  
ABBIGERE, CHIKKABANAVARA  
BENGALURU-560 090
2. THE MANAGER  
RELIANCE GENERAL INSURANCE  
OFFICE AT 4/3-1 AND 3/2M, 11<sup>TH</sup> MAIN  
3<sup>RD</sup> BLOCK, JAYANAGAR  
BANGALORE-560 061

...RESPONDENTS

(BY SRI: G R RAVEESHA, ADVOCATE FOR R1;  
SRI: ASHOK N PATIL, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 13.02.2019 PASSED IN MVC NO. 3975/2017 ON THE FILE OF THE III ADDITIONAL JUDGE AND MEMBER, MACT, COURT OF SMALL CAUSES, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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



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CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN  
and  
HON'BLE MR. JUSTICE T.P.VIVEKANANDA

**ORAL JUDGMENT**

(PER: HON'BLE MR. JUSTICE T.P.VIVEKANANDA)

Both these appeals arise out of the judgment and award dated 13.02.2019 in MVC No.3925 of 2017 passed by the III Additional Judge and Motor Accident Claims Tribunal, Court of Small Causes, Bengaluru (SCCH-18), whereby, the Tribunal has awarded compensation of Rs.34,92,619/- to the claimant for the injuries sustained in the road traffic accident.

2. MFA No.3524 of 2019 is by the insurer challenging the award of the Tribunal on the ground of contributory negligence on the part of claimant, so also, on the quantum of compensation. Whereas, MFA No.37 of 2020 is by the claimant seeking enhancement of compensation for the injuries sustained by him.

3. It is not in dispute that the claimant met with an accident on 13.05.2017 while driving his motorcycle bearing registration No.KA-02-X-6980. The offending vehicle is the



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lorry bearing registration No.KA-51-D-1489. It is the case of the claimant that the offending lorry came from opposite direction and dashed against the motor cycle driven by him, as a result of which, he suffered serious injuries and fractures.

4. The claimant was examined as PW1 and doctor was examined as PW2. Records of the criminal Court and the documents relating to treatment undergone by the claimant have been produced and marked. No evidence was led in by the respondents, let alone the insurer. The claim of the claimant before the Tribunal was that, he was professional driver having his own car. The claimant was aged 30 years as on the date of accident. According to the medical records, both the upper limbs have been amputated, in addition to other severe and grievous injuries.

5. Ex.P4 - the wound certificate reveals the following injuries:

*"a) Auto amputated right leg in the middle 1/3rd , Tibial & Fibular amputated end exposed.*

*b) Auto amputated right arm in the middle 1/3rd, humerus amputated end is exposed.*



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*c) Degloving injury of left hand with radius & ulna bones exposed.*

*Opinion: On examination of the patient by name Mr. Francis Xaieour, I am of the opinion that the injuries No.1, 2 & 3 are Grievous in nature. The injuries are fresh & probably caused by RTA."*

6. As per the evidence of PW2 - doctor, the claimant has suffered severe crush injury to both upper limbs and right lower limb with a viable limbs, left sided 4th, 5th, 6th and 7th rib fractures AKI Rghabdomyolysis and underwent surgery in the form of amputation both sides and AK amputation right lower limb and revision amputation right leg and right arm. PW2 in his evidence has deposed that the claimant has suffered 100% disability and 100% loss of earning capacity. However, the Tribunal has considered the disability at 90%. Though the claimant has deposed that he was earning Rs.50,000/- per month as owner-cum-driver, however, no documents have been produced to establish the said earning.



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7. Taking note of the aforesaid oral and documentary evidence, the Tribunal has awarded the compensation as follows:

| Sl.No. | Compensation heads                                        | Amount (Rs.) |
|--------|-----------------------------------------------------------|--------------|
| 1      | Pain and Suffering                                        | 2,50,000/-   |
| 2      | Loss of income during laid up period and rest period      | Nil          |
| 3      | Medical Expenses                                          | 5,06,619/-   |
| 4      | Loss of future income                                     | 18,36,000/-  |
| 5      | Loss of marriage prospectus                               | 2,00,000/-   |
| 6      | Discomfort, Attendant, Nourishment and Conveyance charges | 2,00,000/-   |
| 7      | Future medical expenses                                   | 5,00,000/-   |
|        | Total                                                     | 34,92,619/-  |

8. We have heard learned counsel for the appellant in both the appeals, perused the appeal papers, so also, the Trial Court records.

9. The contention of the learned counsel for the insurer is that, driver of the lorry alone is not responsible for the cause of accident and the claimant has also contributed for



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occurrence of the accident, by riding his motor cycle at the middle of the road. Considering the police records, more particularly, the mahazar/spot panchanama drawn at the accident spot, the Tribunal ought to have considered the contributory negligence on the part of the claimant. The other contention of the insurer is in relation to quantum of compensation.

10. Learned counsel for the insurer further submits that the Tribunal has erroneously considered the income of the claimant at Rs.10,000/- per month, which is excessive and the disability considered by the Tribunal at 90% is also excessive. It is his contention that the grant of compensation under the head of future medical expenses, pain and sufferings, loss of marriage prospectus and discomfort, attendant charges, nourishment and conveyance are all on the higher side. Learned counsel has concluded his submission contending that the rate of interest at 8% p.a. is in higher side compared to the present rate of interest on the Fixed Deposit.

11. *Per contra*, learned counsel for the claimant submits that the nature of injuries suffered by the claimant demands



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consideration of 100% disability to the whole body and 100% functional disability. Inasmuch as, the right leg and right arm of the claimant has been amputated and suffered injury to the left hand with radius and ulna have been exposed. Therefore, the claimant cannot undertake any work and it is difficult for him to attend to his day to day work and he require attendant during his entire lifetime. Therefore, any amount of compensation determined by the Tribunal would not substitute for the loss of amenities and discomfort in the entire life. In light of the nature of injuries suffered by the claimant, his marriage prospects is completely lost. In that view of the matter, it is the submission of the learned counsel for the claimant that it is a fit case where the disability at 100% is to be considered. He further submits that the income considered by the Tribunal is inadequate, inasmuch as, the accident is of the year 2017 and even the notional income of Rs.11,000/- is required to be considered by adding 40% future prospectus. Hence, he seeks for enhancement of compensation.

12. Insofar as the submission of the learned counsel for the insurer that the claimant has contributed for the occurrence



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of the accident by driving the two wheeler at the middle of the road is concerned, we have perused the spot mahazar at Ex.P2. It is recorded in the said panchanama that the width of the road is only 12 feet and the accident occurred at a distance of 5 feet from the edge of the southern side of the road towards north. We doubt as to whether the lorry could have entered the road width of which is 12 feet. If the width of the road is 12 feet, there would be no space for a two wheeler to pass through. Therefore, it cannot be said that it is on account of negligence on the part of the claimant the accident has occurred. Added to that, in order to prove the contributory negligence on the part of the claimant, the insurer has neither examined any of the eye witnesses (if any) or the driver of the lorry against whom the charge sheet has been filed by the police and filing of the charge sheet against the driver remained unchallenged. In the absence of any contra evidence led in by the insurer, any contention regarding the contributory negligence is liable to be rejected.

13. After having considered the rival submissions of both the parties, we are of the opinion that it is a fit case for



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grant of sufficient compensation for the severe injuries, fractures, amputation suffered by the claimant. We have seen the photographs marked as Ex.P10 and we feel that any amount of compensation, which this Court is going to award would not bring back the future life of the claimant. The monetary compensation is not a substitute for the future life lost by the claimant and it is only a hypothetical assessment. Since awarding of monetary compensation is the only remedy available for the claimant, this Court proposes to determine the compensation as follows:

| Sl. No. | Particulars of heads                                      | As per the Award of MACT | Re-assessed compensation (Rs.)                                     |
|---------|-----------------------------------------------------------|--------------------------|--------------------------------------------------------------------|
| 1       | Pain and Sufferings                                       | 2,50,000/-               | 2,50,000/- (+)<br>2,50,000/-                                       |
| 2       | Loss of income during laid up period                      | NIL                      | -                                                                  |
| 3       | Medical Expenses                                          | 5,06,619/-               | 5,06,619/-                                                         |
| 4       | Loss of future income                                     | 18,36,000/-              | (11,000+40% $\times$ 12 $\times$ 17 $\times$ 100%)=<br>31,41,600/- |
| 5       | Loss of marriage prospects                                | 2,00,000/-               | 3,00,000/- (+)<br>2,00,000/-                                       |
| 6       | Discomfort, attendant, nourishment and conveyance charges | 2,00,000/-               | 3,00,000/- (+)<br>2,00,000/-                                       |



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|   |                                                                   |             |                              |
|---|-------------------------------------------------------------------|-------------|------------------------------|
| 7 | Future medical expenses for purchase of replacement of prosthetic | 5,00,000/-  | 2,50,000/- (+)<br>5,00,000/- |
|   | Total                                                             | 34,92,619/- | <b>58,98,219/-</b>           |

The total re-assessed compensation, to which the appellant is entitled is **Rs.58,98,219/-**.

14. The Tribunal has awarded interest @ 8% per annum from the date of petition till the date of realisation. Considering the overall circumstances and the fact that this Court has considered the disability at 100% and enhanced substantial compensation, we feel that it is a fit case where the percentage of interest is to be reduced from 8% to 6% per annum.

15. There was a delay of 199 days in filing the appeal by the claimant. This Court by an order dated 11.09.2025, while condoning the delay has held that the claimant would not be entitled for interest for the delayed period of 199 days. In that view of the matter, the claimant is not entitled for interest for the delayed period of 199 days.



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16. In the result,

(i) MFA No.3524 of 2019 filed by the Insurer is ***dismissed.***

(ii) MFA No.37 of 2020 filed by the claimant is ***allowed in part.***

(iii) The judgment and award judgment and award dated 13.02.2019 in MVC No.3925 of 2017 passed by the III Additional Judge and Motor Accident Claims Tribunal, Court of Small Causes, Bengaluru (SCCH-18), is modified.

(iv) The appellant is entitled for total re-assessed compensation of **Rs.58,98,219/-** as against the compensation already granted by the Tribunal in a sum of Rs.34,92,619/-.

(v) The enhanced compensation shall carry interest at 6% per annum from the date of petition, till its realization.

(vi) The release of the amount and deposit shall be in the same proportion as ordered by the Tribunal in the impugned award.



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(vii) The appellant is not entitled for the interest for the delayed period of 199 days.

(viii) The statutory deposit of Rs.25,000/- alongwith accrued interest be transmitted to the Tribunal for disbursement.

Registry is directed to transmit the Trial Court records, forthwith, along with the copy of this judgment, for needful action.

**Sd/-  
(ANU SIVARAMAN)  
JUDGE**

**Sd/-  
(T.P.VIVEKANANDA)  
JUDGE**

BGN  
List No.: 1 Sl No.: 3