

**IN THE HIGH COURT OF KARNATAKAAT BENGALURU****DATED THIS THE 29TH DAY OF JULY, 2026****PRESENT****HON'BLE MR. JUSTICE JAYANT BANERJI****AND****HON'BLE MS. JUSTICE TARA VITASTA GANJU****MISCELLANEOUS FIRST APPEAL NO. 2158 OF 2018 (MV-I)****BETWEEN:**

RAMESHA NAIK
AGED ABOUT 25 YEARS,
S/O RANGA NAIK,
R/O MEBAIL, SALIMANE,
SHANKARANARAYANA VILLAGE,
KUNDAPURA TALUK,
UDUPI DISTRICT-576 101.
REPRESENTED BY HIS FATHER
RANGA NAIK,
AGED ABOUT 49 YEARS,
S/O LATE KRISHNA NAIK.

...APPELLANT

(BY SRI. PAVANA CHANDRA SHETTY.H., ADVOCATE)

AND:

1. VINOD SHETTY
AGED ABOUT 29 YEARS,
S/O GAJANANA SHETTY,
R/O GANESH NAGARA,
SIRASI,
UTTARA KANNADA DISTRICT-575 401.
2. DIVISIONAL CONTROLLER,
KSRTC, LALBAGH,
MANGALORE-575 401.
REP: BY ITS DIVISIONAL MANAGER.

...RESPONDENTS

(BY SRI. A.C. BALARAJ., ADVOCATE FOR R2;

Digitally signed
by JAI JYOTHI J
Location: HIGH
COURT OF
KARNATAKA



R1-SERVED)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 09/11/2017, PASSED IN MVC NO.507/2015, ON THE FILE OF THE ADDITIONAL DISTRICT JUDGE AND ADDITIONAL MACT, UDUPI (SITTING AT KUNDAPURA), 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 JAYANT BANERJI
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORALJUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present appeal seeks to challenge the judgment and award dated 09.11.2017, in MVC No.507/2015, passed by the learned Additional District Judge and Additional MACT, Udupi as amended by an Order dated 29.12.2017,(hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded compensation in a sum of Rs.26,88,503/-, along with interest at 6% per annum from the date of the petition till its realisation.



2. The respondent No.1 being the driver of the offending bus and also employee of respondent No.2/KSRTC, though served has not appeared before this Court and is accordingly proceeded with as *ex-parte*. The appeal though listed for Admission, with the consent of the parties, this Court has heard and decided the appeal finally today.

3. Briefly, the facts of the case are that on 24.03.2015, the appellant/claimant was riding his motorcycle bearing Reg.No.20-EC-2038, from Mebail side towards Haladi side, on Ampar-Haladi Road. When he reached at Shankaranayana Pete, at that time a KSRTC bus bearing Reg.No.KA-19-F-2692, stated to be driven in a rash and negligent manner by respondent No.1, lost control over the vehicle and hit the appellant/claimant's motorcycle. Due to the accident, the appellant/claimant sustained grievous injuries all over his body and was shifted to



Adarsha Hospital, Udupi, where he was treated as an inpatient.

4. A claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'MV Act') by the appellant/claimant stating that prior to the accident, he was healthy and working as a Mason earning Rs.18,000/- per month. He further submitted that as a result of the injury suffered in the accident, he had impaired his general health and had suffered permanent disablement, disfiguration and ugliness. The claim petition also stated that he was unable to do any work, including carrying out his daily activities.

5. The respondent No.1/driver of the offending KSRTC bus, however, did not appear and was proceeded with *ex-parte* before the learned Tribunal. The claim petition was contested by the respondent No.2/KSRTC, denying the mode of the accident, age, income and the occupation of



the appellant/claimant. It was further stated that the rate of interest needs to be restricted to 6% p.a.

6. Based on the pleadings between the parties, the following Issues were framed by the learned Tribunal:

"1. Whether the petitioner proves that petitioner sustained bodily injuries arising out of the accident that took place on 23-03-2015 at about 08:15a.m., Shankaranarayanapete, Kundapura Taluk, at that time by use of KSRTC Bus bearing Reg. No.KA-19-F-2692, driven by its driver and due to actionable negligence of driver of the offending vehicle KSRTC Bus bearing Reg. No.KA-19-F-2692?

2. Whether respondent No.2 proves that the driver of the KSRTC Bus bearing Reg. No.KA-19-F-2692, was not holding valid and effective driving license to drive the said vehicle at the time of alleged accident?

3. Whether the petitioner is entitled for compensation as sought for? If so, what is the quantum and from whom?

4. What order or award?"

7. On behalf of the appellant/claimant, the natural guardian and the father of the appellant/claimant was examined as PW-1, one eye-witness was examined as PW-2 and a Doctor namely, Dr.Ullas Shetty, was examined as PW-3. The claimant also produced 23 documents in evidence as Exhibits-P1 to P23, which included the FIR



(Exhibit-P1), spot mahazar(Exhibit-P2), spot sketch (Exhibit-P3), IMV Report (Exhibit-P5), Charge-sheet (Exhibit-P8). In addition, to evidence his injuries, the appellant/claimant placed on record a Wound Certificate (Exhibit-P4) and Disability Certificate (Exhibit-P9), Medical bills, photo, CD, prescriptions, CT scan etc., from Exhibits-P13 to P23. The driver of the KSRTC bus, respondent No.1, was examined as RW1. However, the respondent did not produce any documents.

8. After examining the evidence produced, the learned Tribunal found that the charge-sheet, FIR, spot-mahazar were admitted and based on these admissions and the oral evidence, the negligence of the offending vehicle stood proved.

9. So far as concern the compensation, the learned Tribunal found that the appellant/claimant had sustained grievous injuries. In addition, an examination by the Doctor (PW3) and on his evaluation of disability, it was



found that the appellant/claimant suffered from left-side paralysis, loss of memory and loss of vision in both his eyes. The Doctor (PW3) also deposed that the appellant/claimant will require a cranioplasty, which would cost Rs.1.5 lakhs and in addition, further expenses for future surgery would also be required.

10. Accordingly, the learned Tribunal took the monthly income of the claimant as Rs.9,000/- per month and based on the disability stated by the Doctor, permanent disability of 70% to the whole-body and since the appellant/claimant was 23 years old, applying the multiplier of 18, the 'loss of future earning capacity' was calculated as follows:

$$\text{Rs.9,000} \times 12 \times 18 \times 70\% = \text{Rs.13,60,800/-}.$$

10.1 In addition, amounts were awarded towards loss of marriage prospects, loss of amenities and towards conveyance, nourishment and attendant charges as follows:



Sl.No.	Heads of compensation	Amount (in Rs.)
1	Injury, Pain and Suffering	3,00,000/-
2	Medical Expenses	7,53,403/-
3	Loss of Earning during treatment	24,300/-
4	Loss of future earning capacity	13,60,800/-
5	Loss of Marriage prospects	1,00,000/-
6	Loss of Amenities	1,00,000/-
7	Conveyance, Nourishment and Attendant charges	50,000/-
	TOTAL	26,88,503/-

10.2 Although initially the award was for Rs.29,83,100/- by an order dated 29.12.2017, the award was modified by reducing medical expenses and future surgery expenses. Thus, compensation in a sum of Rs.26,88,503/- along with interest at 6% per annum was awarded.

11. As stated above, the challenge in the present appeal is by the appellant/claimant. The learned counsel for the appellant/claimant states that the appellant/claimant suffered from severe injuries including to his head.



Reliance on this behalf is placed on the description of the injuries as stated in the Impugned Award, which included left side paralysis, severe brain and head injuries, as well as disability of vision.

12. The learned counsel submits that based on the condition of the appellant/claimant, the learned Tribunal should have assessed his functional disability at 100%. However, only physical disability was assessed and compensation was awarded.

12.1 In this behalf, reliance is also placed by the learned counsel for the appellant/claimant on the evidence of PW-3, the Doctor, as well as on the evidence of the father of the appellant/claimant, who was examined as PW-1. The learned counsel for the appellant/claimant further states that since the cross-examination did not reveal anything to the contrary. Thus, disability was to be taken at 100%.

12.2 Secondly, it is contended, relying on the judgment of the Supreme Court in the case of **Benson George vs.**



Reliance General Insurance Company Limited¹that in such a case, where the claimant is even unable to take care of his day-to-day activities, the Supreme Court has awarded compensation in the sum of Rs.10,00,000/- under the head 'pain, shock and suffering' and Rs.10,00,000/- under the head of 'loss of amenities and happiness'.

13. The learned counsel for the respondent, on the other hand, contends that PW-3 was not the treated Doctor. He submits that the evidence of only the treated Doctor should have been produced. Thus, the disability which the appellant/claimanthas suffered is 70% and the learned Tribunal has rightly taken disability at 70%.

13.1 So far as concerns the aspect of the judgment produced, the learned counsel for the respondent submits that the judgment is not applicable to the facts of the present case.

¹(2022) 13 SCC 142



14. The point that arises for determination by this Court is whether the compensation awarded by the learned Tribunal needs any modification?

15. An examination of the record reflects that the appellant/claimant was brought to the Court during the proceedings before the learned Tribunal on 01.10.2016. It is apposite to record the order of the learned Tribunal, which describes the condition of the appellant/claimant:

"MVC 507-2015

Injured Ramesh Nayak is present. He is accompanied by his father Ranga Naik Who is father of petition.

*It is observed in the open court **that injured petitioner Ramesh Naik, is not able to respond to commands, he lacks attention, suffers from deficiency of comprehension and unable to tender evidence independently. Further he is not able to speak and respond to commands so he is required to be represented by his guardian (N/G) that** is his father. Accordingly injured father Ranga Naik his permitted to tender evidence on behalf of injured petitioner Sri.Ramesh Naik call later."*

Sd/-

*District Addl. District and Session Judge
Sitting at Kundapura"*

[Emphasis Supplied]

16. Although the respondent No.2/Insurance Company has taken an objection to the fact of the Doctor (PW-3)



not being a treated Doctor, it is not disputed by the learned counsel for respondent that the treated Doctors were not summoned by them to depose or that any evidence to the contrary regarding the disability of the appellant/claimant was brought on record by the respondents. Thus, as was available before the learned Tribunal and this Court, the medical evidence of the Doctor (PW-3) would be required to be examined.

17. The evidence sets out that the Doctor (PW3) has examined the appellant/claimant. He has also set out the date of the accident, as well as the injuries suffered in the accident. The relevant portion of the evidence of PW-3 is set out below:

*"2. I say that Mr. Ramesh s/o Mr. Ranga Naik, male aged 23 years, an inhabitant of, Salemane, Kallugudde, Shankaranarayana, Kundapura, Udupi was admitted to **A.J. Hospital (date of admission 24/03/2015) due to alleged history of Road Traffic Accident at Shankaranarayana, Kundapura, Udupi on 24/03/2015 at around 08:15 AM. He had following injuries:***

** Laceration of 5 cm x 1 cm x bone deep on the back of head with CT scan showing*

- : a) Bilateral frontal and temporal lobes contusion*
- : b) Extra dural hematoma*



: c) Fracture of left temporal bone
: d) Diffuse cerebral edema.

- Reddish abrasion of 9 cm x 3 cm on the outer aspect of right hip.
- Reddish abrasion of 4 cm x 2 cm on the left wrist.
- Reddish abrasion of 12 cm x 4 cm on the inner aspect of lower part of right leg.
- Swelling and deformity of left leg with underlying segmental fracture of tibia and fibula.

3. **He was treated with Right fronto temporal decompressive craniotomy and evacuation of right temporal contusion done under GA by Dr. A Raja. He was discharged on 15/05/2015. The wound certificate has been issued by me.** He was on follow up."

[Emphasis Supplied]

17.1 He has also examined the previous medical records of the injured. The Doctor has thereafter proceeded to assess disability and has found that the appellant/claimant suffers from disability permanent physical disability of 70%, with respect to the whole-body. He assessed the disability and the relevant portion is set out below:

"5. **I swear that, I have examined Mr. Ramesh on 11-09-2016 for the purpose of disability evaluation along with Dr. Raja and found following problems:**

- **Mild degree of left sided hemiparesis**
- **Loss of memory (recent and immediate), patient has complex integrated functional disturbances and needs some supervision**
- **Loss of vision in the right eye** (right-perception of light, left -6/18, right eye subhyloid hemorrhage with optic neuropathy, ophthalmology report attached)



- **Craniotomy scar and depression present on right side of head.**

6. I swear that, I have assessed Disability using: Ministry Of Social Justice And Empowerment, Notification, GOI, New Delhi, 1st June, 2001 & Textbook of Neurosurgery, page no-2563- complex integrated cerebral function disturbances Robert H Wilkins and Setti S Rengachary,

	Right	Left
Power—Upper limb	5/5	4/5
Hand	5/5	4/5
Lower limb	5/5	4/5
Spasticity-Upper limb	Normal	Present
Lower limb	Normal	Present
Reflexes-Upper limb	Normal	Increased
Lower-limb	Normal	Increased
Sensory-Upper limb	Normal	Normal
Lower Limb	Normal	Normal

McGrawHill Publication. Calculation:

Hemiparesis:-

- Mild **25%**
- Moderate 50%
- Severe 75%

II. Complex Integrated Functional disturbances—

<u>But can carry out simple daily living tasks</u>	<u>5-15%</u>
<u>Needs some supervision</u>	<u>20-45%-40%</u>
<u>Needs confinement</u>	<u>50-90%</u>
<u>Cannot care for self</u>	<u>95%</u>



Category	Better eye	Worse eye	% age impairment
Category 0	6/9-6/18	6/24 to 6/36	20%
Category I	6/18-6/36	6/60 to Nil	40%
Category II	6/40-4/60 or field of vision 10°-20°	3/60 to Nil	75%
Category III	3/60 to 1/60 or field of vision 10°	F.C. at 1 ft. to Nil	100%
Category IV	F. C. at 1 ft. to Nil or field of vision 10°	F.C. at 1 ft. to Nil	100%
One eyed persons	6/6	F. C. at 1 ft. to Nil or field of vision 10°	30%

III. Vision

Total=25+40+40= $a + [b (90-a)/90] = 40 + [40 (90-40)/90] = 62 + 25 = a + [b (90-a)/90] = 62 + [25 (90-62)/90] = 70\%$.

7. After perusal of wound certificate, discharge summary, case sheet and neurological examination, we are of the opinion that he has a permanent physical disability of 70% with respect to whole body. The cranioplasty will cost about 1,50,000/- only."

[Emphasis Supplied]

18. We have also examined the cross-examination of the Doctor (PW-3) in this behalf. There is nothing to the contrary elucidated in the cross-examination by the respondent No.2/insurance company.



19. In addition, the Court has also examined the Affidavit of PW1, who is the father of the appellant/claimant, wherein the condition of the appellant/claimant has been described. It is stated therein that after the accident for about 16 months, the appellant was on complete bed rest and thereafter for about 2 months, he has started walking, with the help of Assistants. However, he is unable to walk properly. He also has no memory of the past. He talks about random things and is unable to do daily activities without the dependence of the Assistants. The evidence also reflects that the appellant/claimant would have to depend on someone else for the rest of his life.

20. In addition, the deposition sets out that the appellant/claimant would require surgery for the dent in his head caused by the skull depression and would also need further surgery(ies). The relevant portion of his evidence is set out below:

*"4) I state that prior to the accident, **the petitioner was healthy and working as a masonry supervisor, employing 4 masonry work, and was doing***



masonry work in a good manner. Prior to the accident, the petitioner was earning Rs.18,000/- per month and was taking care of all the expenses of our house. **After the accident, till now, i.e., for about 16 months, he has been on complete bed rest, and now for about 2 months, he has started walking slightly with the assistants.** Even today, the petitioner is unable to walk properly. **Due to the severe head injury** sustained by the petitioner in the above-mentioned accident, **the petitioner has mental stability. The petitioner has no memory of the past and talks to himself about random things, and even is unable to do his daily activities without the dependence of assistants. Even now, there is a need for an assistant to take care of the petitioner.** In our extremely poor family, the petitioner's earnings were the only support, and since the petitioner is unable to work due to this accident, we are forced to lead a very difficult life. There are no chances of the petitioner becoming like before due to this accident. For the rest of his life, he will have to depend on someone else. He is unmarried, and he has been deprived of marital life, happiness, joy, and the companionship of a family.

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7) I state that **the petitioner requires surgery for the dent caused by the skull depression, and the doctors have stated in the disability certificate that an amount of Rs.1,50,000/- will be incurred for the surgery.** Similarly, the the petitioner has lost the vision in his right eye, and the vision in his left eye has decreased, and the doctors have stated that there is a need for surgery regarding this in the coming days. Since the petitioner has to receive treatment throughout his future, an amount exceeding Rs.10,00,000/- will be required for future treatment. Even after receiving such good treatment, the petitioner is like a living corpse, and we ourselves have to do all his daily activities."

[Emphasis Supplied]



21. We have also perused the photographs, which are annexed at Exhibits-P14. The photographs reflecting the condition of the injured appellant/claimant. The cross-examination which was conducted by the respondent No.2/ insurance company also does not show anything, which would make the Court disbelieve the version of the evidence.

22. An examination of the Impugned Award shows that the learned Tribunal has not considered functional disability at all. It has simply taken into consideration the 70% physical disability, to calculate the loss of future earning.

23. The Supreme Court in ***Raj Kumar Vs. Ajay Kumar and Another***² has in detail discussed how the Court must calculate 'loss of future earning' due to a permanent disability, as a result of injuries in a motor vehicle accident. It was held that the percentage of economic loss is distinguishable from the percentage of permanent

² (2011) 1 SCC 343



disablement. What is required to be assessed by the Tribunal is the 'loss of earning capacity' of the injured in terms of his capacity to earn. The learned Tribunal has to estimate how the disablement will affect his earning capacity. This would depend on multiple factors which include his avocation, education, age and other factors. The principles for assessment of disability have been summarized in the following manner:

"10. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, the percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability. Some Tribunals wrongly assume that in all cases, a particular extent (percentage) of permanent disability would result in a corresponding loss of earning capacity, and consequently, if the evidence produced show 45% as the permanent disability, will hold that there is 45% loss of future earning capacity. In most of the cases, equating the extent (percentage) of loss of earning capacity to the extent (percentage) of permanent disability will result in award of either too low or too high a compensation.

11. What requires to be assessed by the Tribunal is the effect of the permanent disability on the



earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). **We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that the percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation.** (See for example, the decisions of this Court in *Arvind Kumar Mishra v. New India Assurance Co. Ltd.* [(2010) 10 SCC 254 : (2010) 3 SCC (Cri) 1258 : (2010) 10 Scale 298] and *Yadava Kumar v. National Insurance Co. Ltd.* [(2010) 10 SCC 341 : (2010) 3 SCC (Cri) 1285 : (2010) 8 Scale 567]).

12. Therefore, the Tribunal has to first decide whether there is any permanent disability and, if so, the extent of such permanent disability. This means that the Tribunal should consider and decide with reference to the evidence:

(i) whether the disablement is permanent or temporary;

(ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement;

(iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is, the permanent disability suffered by the person.

If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of



the claimant based on the medical evidence, **it has to determine whether such permanent disability has affected or will affect his earning capacity.**

13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.

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15. It may be noted that when compensation is awarded by treating the loss of future earning capacity as 100% (or even anything more than 50%), the need to award compensation separately under the head of loss of amenities or loss of expectation of life may disappear and as a result, only a token or nominal amount may have to be awarded under the head of loss of amenities or loss of expectation of life, as otherwise there may be a duplication in the award of compensation. Be that as it may.

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19. We may now summarise the principles discussed above:

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.



(ii) **The percentage of permanent disability** with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, **the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).**

(iii) **The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.**

(iv) **The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors."**

[Emphasis Supplied]

24. In the present case, given the nature of the injuries and the fact that the appellant/claimant is unable to do even his daily activities and is dependent on others for the same, the disability would have to be assessed at 100%. Given the fact that the appellant/claimant is 23 years old, the appropriate multiplier applicable would be '18' and in



view of the fact that the accident occurred in the year 2015, the notional income is taken at Rs.9,000/- and 40% is added towards 'future prospects' considering 100% disability to the whole body and the compensation towards 'loss of income due to disability' is calculated thus:

Loss of income due to disability	Amount
$(9000 + 40\%) \times 12 \times 18 \times 100\%$	Rs.27,21,600/-

25. So far as concerns the 'loss of marriage prospects' and 'loss of amenities', these are increased to Rs.2,00,000/- each and compensation towards 'Injury, pain and suffering' is increased to Rs.5,00,000/-.

26. So far as concerns the judgment of the Supreme Court that has been placed on record by learned counsel for the appellant in **Benson George** case, the judgment is distinguishable from the facts of the present case, as the injured in that case was suffering in a coma, even after a period of 8 years from the accident and would be bed-ridden for his entire life. In the present case, the



appellant/claimant is conscious but stated to be in a vegetative state. However, as per the evidence of his own father, presently he is atleast walking with some difficulty.

26.1 The award for 'Conveyance, Nourishment and Attendant charges' at Rs.50,000/- is also, wholly inadequate. Since the appellant/claimant is unable to take care of his day-to-day activities or be able to live his life in a normal way, he would require an attendant for the rest of his life at least the next 50 years. Given his age at the time of the accident and this Court deems it apposite to award 'Caretaker Expenses / Attendant Charges' for a period of 50 years, which we find it just and proper to award at Rs.10,00,000/-.

27. In view of the foregoing discussion, this Court deems it apposite to re-assess the compensation to be awarded in the following manner:

Sl.No.	Heads of compensation	Amount (in Rs.)
1	Loss of future earning capacity (Rs.9,000 + 40%) x 12 x 18	27,21,600/-



2	Injury, Pain and Suffering	5,00,000/-
3	Medical Expenses	7,53,403/-
4	Loss of Marriage prospects	2,00,000/-
5	Loss of Amenities	2,00,000/-
6	Conveyance, Nourishment and Attendant charges	10,00,000/-
7	Loss of Earning during treatment	54,000/-
	TOTAL	54,29,003/-
	Less: Awarded by Tribunal	26,88,503/-
	Enhanced compensation	27,40,500/-

28. Hence, the appellant/claimant is entitled to total compensation of **Rs.54,29,003/-** along with interest at 6% per annum from the date of petition till the date of realization.

29. Accordingly, the Court proceeds to pass the following:

ORDER

(i) The appeal is ***allowed in part;***

(ii) The Impugned Judgment and Award dated 09.11.2017, in MVC No.507/2015, passed by the learned



Additional District Judge and Additional MACT, Udupi as amended by an Order dated 29.12.2017, is modified, to the extent that the appellant/claimant is entitled to enhanced compensation of **Rs.54,29,003/-** along with interest at the rate of 6% per annum.

(iii) The remaining portion of the Impugned Award of the learned Tribunal remains undisturbed.

(iv) The respondent No.2/Insurance Company shall deposit the enhanced compensation with interest applicable thereon, within a period of eight weeks from the date of receipt of a copy of this judgment;

(v) On such deposit of compensation, the same shall be released in favour of the appellant/claimant, on filing of an appropriate application by the appellant/claimant for withdrawal of the enhanced amount.

(vi) The Registry is directed to draw the modified Award accordingly.

(vii) The Registry is directed to transmit a copy of this judgment to the concerned Tribunal.

HC-KAR



CNR: KAHC010364012018

NC: 2026:KHC:39448-DB
MFA No. 2158 of 2018

(viii) No order as to costs.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

JJ

List No.: 1 Sl No.: 10