



CNR: KAHC010428252023

NC: 2026:KHC:45073
MFA No. 5676 of 2023
C/W MFA No. 6385 of 2022
MFA No. 6417 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.5676 OF 2023(MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO.6385 OF 2022(MV-I)

MISCELLANEOUS FIRST APPEAL NO.6417 OF 2022(MV-I)

IN MFA No. 5676/2023

BETWEEN:

SMT. MANJULA
W/O MANJUNATHA,
NOW AGED ABOUT 29 YEARS,
RESIDING AT
BELAGANAHALLI VILLAGE
MALLANAYAKANAHALLI POST,
MULABAGAL TALUK,
KOLAR DISTRICT.

...APPELLANT

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

(BY SRI. GOPALA KRISHNA N, ADVOCATE FOR
SMT. SUSHMITHA G, ADVOCATE)

AND:

1. YEDUPATHI
S/O HANUMAPPA,
NOW AGED ABOUT 49 YEARS,
RESIDING AT
BELAGANAHALLI VILLAGE,
MALLANAYAKANAHALLI POST,
MULABAGAL TALUK,
KOLAR DISTRICT - 563131.
2. M/S IFFCO-TOKIYO



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INSURANCE COMPANY LTD.,
CUSTOMER SERVICE CENTRE,
SRI SHANTHI TOWRS,
5TH FLOOR, 3RD MAIN,
NGEF LAYOUT,
KASTURINAGAR,
BENGALURU-560043.
REP. BY ITS MANAGER.

...RESPONDENTS

(BY SRI. B.C. SIVANNEGOWDA, ADVOCATE FOR R2,
VIDE ORDER DATED 02.07.2026, NOTICE TO R1 IS
DISPENSED WITH)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DT.20.04.2022 PASSED IN MVC
NO.7375/2019 ON THE FILE OF THE XVIII ADDITIONAL JUDGE,
COURT OF SMALL CAUSES, MEMBER, MACT, BENGALURU CITY,
(SCCH-4), PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

IN MFA NO. 6385/2022

BETWEEN:

THE MANAGER
IFFCO-TOKIO GENERAL
INSURANCE COMPANY LTD.,
NO.141, 5TH FLOOR
SRI SHANTHI TOWERS, III MAIN
EAST TO NGEF LAYOUT
KASTURINAGAR, BANGALORE-43

...APPELLANT

(BY SRI. B.C SHIVANNE GOWDA, ADVOCATE)

AND:

1. SMT RAMADEVI
W/O KRISHNAPPA



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AGED ABOUT 33 YEARS
R/O BELAGANAHALLI VILLAGE
MALLANAYAKANAHALLI POST
MULABAGAL TALUK
KOLAR DISTRICT

2. YEDUPATHI
S/O HANUMAPPA
AGED ABOUT 48 YEARS
R/O BELAGANAHALLI VILLAGE
MALLANAYAKANAHALLI POST
MULABAGAL TALUK
KOLAR DISTRICT

...RESPONDENTS

(BY SRI. GOPALA KRISHNA N, ADVOCATE FOR R1,
R2 - SERVED, UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 20.04.2022 PASSED
IN MVC NO.7376/2019 ON THE FILE OF THE XVIII
ADDITIONAL JUDGE, COURT OF SMALL CAUSES, MEMBER,
MACT, BENGALURU, SCCH-4, AWARDED COMPENSATION
OF RS.5,24,440/- WITH INTEREST AT 6 PERCENT P.A.
FROM THE DATE OF PETITION TILL REALIZATION OF THE
AMOUNT.

IN MFA NO. 6417/2022

BETWEEN:

THE MANAGER
M/S IFFCO TOKIO GENERAL
INSURANCE COMPANY LTD
NO.141, 5TH FLOOR,
SRI SHANTHI TOWERS
III MAIN, EAST TO NGEF LAYOUT
KASTURINAGARA, BANGALORE - 43

...APPELLANT

(BY SRI. B.C SHIVANNE GOWDA, ADVOCATE)



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AND:

1. SMT MANJULA
W/O MANJUANATHA
AGED ABOUT 28 YEARS
R/O BELAGANAHALLI VILLAGE
MALLANAYAKANAHALLI POST
MULABAGAL TALUK
KOLAR DISTRICT
2. YEDUPATHI
S/O HANUMAPPA
AGED ABOUT 48 YEARS
R/O BELAGANAHALLI VILLAGE
MALLANAYAKANAHALLI POST
MULABAGAL TALUK
KOLAR DISTRICT

...RESPONDENTS

(BY SRI. GOPAL KRISHNA N, ADVOCATE FOR THE R1,
R2 - SERVED, UNREPRESENTED)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST
THE JUDGMENT AND AWARD DT.20.04.2022 PASSED IN
MVC NO.7375/2019 ON THE FILE OF THE XVIII
ADDITIONAL JUDGE, COURT OF SMALL CAUSES, MEMBER,
MACT, BENGALURU CITY, (SCCH-4), AWARDING
COMPENSATION OF RS.14,48,748/- WITH INTEREST AT 6
PERCENT P.A. FROM THE DATE OF PETITION TILL
REALIZATION.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K



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ORAL JUDGMENT

1. These three appeals are by the claimant as well as insurer against the common judgment dated 20.04.2022 passed in MVC.Nos.7375/2019 and 7376/2019 by the Tribunal.

2. The factual matrix of the case is that, on 14.07.2019 at about 1 p.m., the claimants, who were working as coolies under respondent - Yedupathi, loaded mangoes into the tractor and trailer bearing registration No.AP-03 CD 0471 and KA-07 TA 5664 belonging to said respondent and when they reached Belaganahalli lake on Belaganahalli-Mallanayakanahalli road, Mulabagal Taluk, Kolar District, the driver of the said tractor driven the same in a rash and negligent manner with high speed, lost control over the same and the said vehicle went into the lake. As a result of which, the claimants who were in the trailer fell down and sustained grievous injuries. Accordingly, they filed claim petition i.e., Smt.Manjula filed MVC.No.7375/2019 and Smt.Ramadevi filed MVC.No.7376/2019.



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3. The Tribunal, on assessment of both oral and documentary evidence, has awarded compensation of Rs.14,48,748/- in MVC.No.7375/2019 and Rs.5,24,440/- in MVC.No.7376/2019 along with interest at 6% p.a. from the date of petition till its realisation.

4. Aggrieved by which, while the insurer filed MFA.No.6417/2022 challenging the liability and quantum of compensation, the claimant filed MFA.No.5676/2023 seeking enhancement of compensation awarded in MVC.No.7375/2019. The insurer also filed MFA.No.6385/2022 challenging the liability and the quantum of compensation awarded by the Tribunal in MVC.No.7376/2019.

5. Heard the learned counsel for the insurer and the learned counsel for the claimant.

6. Learned counsel for the insurer would contend that the claimants were gratuitous passengers and as such, they are not covered under the policy as well as the provisions of the Motor Vehicles Act in both the appeals. Moreover, the trailer was not involved in the accident. He also contends that since the



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claimants claimed to be the coolies and that the accident occurred during the course of employment, they are entitled only to the compensation which would be awarded under Employees' Compensation Act, even if they file the claim petition under Section 166 of the Motor Vehicles Act. He further contends that the compensation awarded in both the claim petitions are exorbitant and the same requires to be reduced. He further contends that the Tribunal has erred in adopting the multiplier while calculating the loss of future earnings of the claimant in MFA.No.6385/2022 at '18', although she was aged about 30 years as on the date of the accident and the appropriate multiplier is '17'. Accordingly, he would pray to allow the appeals filed by the Insurance Company.

7. *Per contra*, learned counsel for the claimants would contend that after the accident, one of the claimants Ramadevi lodged a complaint before the Mulbagal Rural Police Station and on the strength of the said complaint, FIR came to be registered against the driver of the tractor and trailer in Crime No.110/2019 dated 15.07.2019. Subsequently, the said police investigated the case and laid a charge sheet against the driver



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of the tractor and trailer. As it is clear that the accident had occurred due to the sole negligence of the driver of the tractor and trailer, the claimants, being coolies i.e., loaders and un-loaders and travelled in the tractor and trailer in order to load the mangoes from the farm garden of respondent No.1 in MFA.No.5676/2023, the insurer is liable to make good the compensation. In support of their case, they relied on the judgment of the Hon'ble Apex Court in the case of **KAMINIBEN AND OTHERS Vs. THE ORIENTAL INSURANCE CO. LTD. & OTHERS - 2026 ACJ 447**, wherein the Hon'ble Apex Court has held that the passengers travelling in a tempo or a goods vehicle for the purpose of loading and un-loading, comes within the ambit of gratuitous passenger and the insurance company is liable to pay the compensation.

8. Learned counsel would also contend that the respondent - employer was placed *ex parte* before the Tribunal and the Insurance Company has also failed to place any cogent evidence to establish that in terms of the policy conditions, the liability of the insurer to pay compensation is limited. In such circumstances, they submit that the Tribunal was justified in



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fastening the entire liability on the insurance company. Further, she would contend that as per the judgment of the Hon'ble Apex Court in the case of **MOHAMMED MASOOD V. NEW INDIA ASSURANCE CO. LTD. AND ANOTHER** in Civil Appeal No.12567/2024 dated 26.09.2025, the claimants have option either to claim compensation under the Motor Vehicles Act, 1988 as also the Employees Compensation Act.

9. As regards compensation, learned counsel for the claimant in MFA.No.5676/2023 would contend that since the claimant is a coolie and suffered amputation of left leg below knee, the Tribunal ought to have assessed the functional disability at 100%. Even in Employees' Compensation Act, the First schedule part-II at S.No.19 indicates that 60% permanent loss of earning capacity must be awarded in such cases. In support of her contention, she relied on the judgment of the Hon'ble Apex Court in the case of **S.ETTIAPPAN Vs. D.KUMAR & ANOTHER** in SLP (C) No.15621/2025 dated 16.10.2025. Hence, the Tribunal has erred in assessing the disability of the claimant at 27%. She would also contend that the Tribunal has erred in



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awarding meagre compensation under all heads. Accordingly, she would pray to allow the appeal of the claimant.

10. I have given my anxious consideration to the submission made by the learned counsel for the respective parties and perused the impugned judgment and award so also other documents made available before this Court.

11. As could be gathered from records, the occurrence of the accident in question on 14.07.2019 and involvement of the tractor and trailer, belongs to respondent No.1 in MFA.No.5676/2023 are not in dispute. It is also not in dispute that the said tractor and trailer is covered with a valid insurance policy.

12. Though it is contended by the learned counsel for the insurer that the accident did not involve the trailer, the spot mahazar and the charge sheet depict that the claimants were travelling in the tractor and trailer along with the mango load. Furthermore, this can also be confirmed from the statement evidence of PW.1 and PW.2. Moreover, the insurance company has not examined the driver of the tractor and trailer to



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disprove the contention of the claimants and evidence of PW.1 and PW.2. Also, the insurance company has not challenged the charge sheet. In such circumstances, I find no force in the contention of the learned counsel for the insurance company that the trailer was not involved in the accident.

13. As far as the other contention raised by the learned counsel for the insurance company, that they are not liable to pay the compensation since the coolies/loaders and un-loaders are not covered under the insurance policy is concerned, as per the judgment of the Hon'ble Apex Court in the case of **Kaminiben** (supra), keeping in view the benevolent object and social welfare purpose underlying the provisions of the Motor Vehicle Act, the insurer is liable to satisfy the award even if the deceased/injured person was travelling in vehicle as a gratuitous passenger. Furthermore, regarding the contention that the accident occurred during the course of employment and that the insurance company is liable only under the Employees Compensation Act, as per the judgment in the case of **Mohammed Masood** (supra) wherein it is held that Section 167 of the 1988 Act statutorily provides for an option to the



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claimant stating that where the death of or bodily injury to any person gives rise to a claim for compensation under the 1988 Act as also the 1923 Act, the person entitled to compensation may without prejudice to the provisions of Chapter X claim such compensation under either of those Acts but not under both. Section 167 contains a non obstante clause providing for such an option notwithstanding anything contained in the 1923 Act. Further, it is observed that once the remedy under the Motor Vehicles Act, 1988 was elected to be pursued by the claimant and the Tribunal adjudicated the compensation by applying the criteria and fixing the income, falling back upon the parameters under the Workmen's Compensation Act, was not permissible.

14. Moreover, a careful reading of the policy - Ex.R2 discloses that the policy covers the owner-driver and driver, and the interest and premium has been paid under IMT 28. As discussed above, the injured - claimants were employed as loaders and un-loaders, and were travelling in the tractor and trailer during the course of their employment under the instructions of their owner. Therefore, the risk of the injured



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employee should cover under the insurance policy. Furthermore, as held in ***Kaminiben*** (Supra), the policy coverage also extends to the gratuitous passenger. Moreover, the insurance company did not raise any specific contention before the Tribunal regarding a restriction on its liability. Admittedly, the owner - respondent no.1 in MFA.No.5676/2023 and the witness - RW.1 remained absent and failed to adduce any evidence before the Tribunal. Thus, the insurance company was duty bound to lead evidence explaining why the policy did not cover loaders, unloaders, or coolies and it ought to have established that, under the specific conditions of the policy, its liability was restricted solely to the driver. Since no such evidence was placed on record in the instant case, the insurance company cannot contend now for the first time in this appeal before this Court that its liability is confined only to the driver or to restrict the compensation payable under the Employment Compensation Act. Therefore, the said contention of the insurer is untenable.

15. As per the judgment in the case of ***RAMCHANDRA VS. REGIONAL MANAGER, UNITED INDIA INSURANCE COMPANY***



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LTD. - (2013) 12 SCC 84, wherein it is held that when the insurer has failed to pursue the appearance of insured - owner and allowed the proceeding to continue in his absence without adducing any evidence to establish that as per terms and conditions of policy, extra premium had not been paid and that except denying liability beyond the liability under Employees Compensation Act, the insurer had not pleaded any alternative plea, that in case the claimant was held entitled to compensation beyond the liability under Employees Compensation Act, the same was not payable in the absence of payment of extra premium, the insurer is liable to make good the compensation. In view of the said ratio, the insurer in the present case is liable to make good the compensation.

16. As regards enhancement of compensation in MFA.No.5676/2023, on careful examination of evidence of Doctor-PW.3, along with Ex.P5 - wound certificate and Ex.P7 - discharge summary, the same depict that the claimant has suffered a crush injury on left foot and that her left leg was amputated below knee. Further, the photographs at Ex.P8 would show the amputation of the claimant's leg. Admittedly,



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the claimant was aged about 26 years and was working as a loader and un-loader. In a similar circumstance, the Hon'ble Apex Court in the case of **ETTIAPPAN** (supra), while dealing with similar case has held in paragraph number 7.1 as under:

7.1 While assessing the compensation in case of claims arising out of motor vehicle accident, it would be the functional disability which will have to be taken into consideration for award of future loss of income. In the instant case, though the doctors have assessed physical disability to whole body at 70%, the tribunal has substituted its view to that of the experts inspite of there being no contra-material available before it to arrive at a conclusion that functional disability being 50%. This Court has time and again stated that tribunal would not sit in the armchair of an expert and re-assess the disability, particularly, when there is clear evidence available. In the instant case, the disability assessment certificate Exhibit-C1 revealed that appellant had suffered 70% physical disability as certified by the Medical Board. There being no other evidence tendered by the insurer or the insured, the tribunal could not have substituted its view by assessing the disability at 50%. This erroneous view of the tribunal has been rightly set aside by the High Court. However, the High Court while reappreciating the evidence has restricted the whole-body disability at 70% on the basis of Medical Board Certificate (Ex. C-1) without noticing the fact that on account of said disability



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suffered by the claimant, his functional disability would be 100%. It is not in dispute that appellant was working as a loader who used to discharge his duties of loading and unloading vegetables into the vehicles. This physical or manual activity would require support of both legs or in other words claimant is required to use both the legs for discharging his duties as a loader. By virtue of amputation of his right leg below the knee, he has become immobile or in other words, he is not in a position to discharge his daily routine work as a loader. It is not the case of insurer or insured that claimant was carrying on any other avocation and as such the disability of 70% suffered would not come in the way of his earning. To earn his bread, he had to work by loading or unloading vegetable into the vehicle which was the only avocation he was carrying on. Now by virtue of amputation of his leg below the knee appellant is not only unable to work as a loader but even unable to stand without support. As such the functional disability requires to be considered at 100% and not 70% as held by High Court.

17. The findings of the Hon'ble Apex Court in the above case squarely apply to the facts and circumstances of this case. Moreover, since there is an amputation of left leg, definitely the same would result in 100% functional disability to the claimant. Even otherwise, the doctor assessed the particular limb



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disability at 70%. In such circumstances, I am of the considered view the disability assessed by the Tribunal at 27% has to be reassessed at **100%**.

18. Since there was no cogent evidence to substantiate the income of the claimant, the Tribunal has rightly taken the notional income at Rs.14,000/- as per the chart of the Karnataka State Legal Services Authority.

19. As the disability is assessed at 100% and the age of the claimant was 26 years as on the date of the accident, 40% requires to be added towards future prospects, which makes the income of the claimant to be **Rs.19,600/-** (Rs.14,000 + 40%). Accordingly, applying the appropriate multiplier i.e., '17', the claimant would be entitled to **Rs.39,98,400/-** (Rs.19,600 X 12 X 17 X 100%) towards loss of future earnings.

20. Since the disability is assessed at 100%, the claimant would not be entitled for any sums towards loss of income during laid up period.



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21. The sum of Rs.20,000/- awarded towards '*conveyance*' requires to be enhanced to **Rs.35,000/-** having regard to the repeated visit of the claimant to the hospital for treatment.

22. The sums of Rs.1,50,000/- awarded towards '*pain and suffering*', Rs.50,000/- awarded towards '*food & nourishment*' and Rs.3,00,000/- awarded towards artificial limb, being just and proper, are affirmed.

23. The sum of Rs.28,388/- awarded towards '*medical expenses*', being based on documentary evidence, is affirmed.

Sl. No.	Compensation under different Heads	As awarded by the Tribunal (Rs.)	As awarded by this Court (Rs.)
1.	Loss of future income	8,16,480	39,98,400
2.	Loss of income during the laid up period	83,880	-
3.	Conveyance charges	20,000	35,000
4.	Pain and Suffering	1,50,000	1,50,000
5.	Food, Nourishment, Attendant charges and loss of amenities	50,000	50,000



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6.	Medical bills	28,388	28,388
7.	Purchase of artificial limb	3,00,000	3,00,000
	Total	14,48,748	45,61,788

24. Thus, the claimant would be entitled to total compensation of **Rs.45,61,788/-** as against Rs.14,48,748/- awarded by the Tribunal along with interest at 6% p.a. from the date of petition till its realisation. However, the claimant would not be entitled for interest for a sum of Rs.3,00,000/- awarded towards artificial limb.

25. The insurer shall deposit the aforesaid compensation within a period of six weeks from the date of receipt of a certified copy of this judgment.

26. The amount in deposit shall be transferred to the concerned Tribunal.

27. On such deposit being made, a sum of Rs.30,00,000/- shall be invested in Fixed Deposit in any nationalised bank with liberty to the claimant to withdraw the accrued interest



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periodically every three months. Further, the claimant is permitted to withdraw the balance amount, if any.

28. As regards quantum of compensation in respect of claimant in MFA.No.6385/2022, the Tribunal has erred in adopting the multiplier while calculating the loss of future earnings of the claimant in MFA.No.6385/2022 at '18', although she was aged about 30 years as on the date of the accident and the appropriate multiplier is '17'. Accordingly, the claimant would be entitled to **Rs.3,14,160/-** (Rs.14,000 X 12 X 17 X 11%) towards '*loss of future earnings*' as against Rs.3,32,640/- awarded by the Tribunal.

29. The other sums, being just and proper, require no interference at the hands of this Court.

30. Thus, the claimant in MFA.No.6385/2022 would be entitled to total compensation of **Rs.5,05,960/-** as against Rs.5,24,440/- along with interest at 6% p.a. from the date of petition till its realisation.



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31. The insurer is directed to deposit the aforesaid amount, if not already deposited, within a period of six weeks from the date of receipt of a certified copy of this judgment.

32. The amount in deposit shall be transferred to the concerned Tribunal.

Accordingly, the appeals are disposed of.

SD/-
(RAJESH RAI K)
JUDGE

CR,PKS
List No.: 1 Sl No.: 18