



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

MISCELLANEOUS FIRST APPEAL NO. 7933 OF 2014 (MV-I)

BETWEEN:

VRUSHABENDRA
AGED ABOUT 34 YEARS,
S/O C. BASAPPA,
R/AT CHENNASOGE VILLAGE,
HUNSUR TALUK,
MYSORE DISTRICT 571 105

...APPELLANT

(BY SRI. P NATARAJU, ADVOCATE)

AND:

1. PHAKRUDDEEN
AGED ABOUT 30 YEARS,
S/O AZMUDDIN,
R/AT NO. 107,
RAHAMATH COLONY,
NEAR BRIDGE,
HUNSUR TOWN,
MYSORE DISTRICT 571 105

2. MERAJKHAN
AGED ABOUT 25 YEARS,
S/O KALEEMKHAN,
R/AT NO.150,
HANAGUDU,
HUNSUR TALUK,
MYSORE DISTRICT 571 105

Digitally
signed by
NIRMALA
DEVI

Location:
HIGH
COURT OF
KARNATAKA



3. UNITED INDIA INSURANCE CO.LTD
NO.442/314,
CHAMARAJA DOUBLE ROAD,
NEAR RAMASWAMY CIRCLE,
MYSORE 570004
REPRESENTED BY ITS MANAGER
4. C. BASAPPA
AGED ABOUT 61 YEARS,
S/O NANDINA SANNAPPA,
R/AT CHENNASOGE VILLAGE,
HUNSUR TALUK,
MYSORE 571 105

...RESPONDENTS

(BY SRI. P.B. RAJU, ADVOCATE FOR R3
NOTICE TO R2 AND R4 - SERVED
V/O DTD 29.1.2021, NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 1.9.2014 PASSED IN MVC
NO.521/2013 ON THE FILE OF THE PRESIDING OFFICER, FAST
TRACK COURT, ADDITIONAL MACT, HUNSUR, MYSORE
DISTRICT, 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 C.M. POONACHA



ORAL JUDGMENT

1. The present appeal is filed by the claimant calling in question judgment and award dated 01.09.2014 passed in MVC No.521/2013 by the Fast Track Court and Addl. MACT at Hunsur, Mysore District¹ whereunder the claim petition filed by the claimant has been partly allowed and the Tribunal has awarded a total compensation of ₹5,46,000/. However, since the Tribunal recorded the finding that the offending vehicle was negligent to the extent of 75% and the claimant was negligent to the extent of 25% in causing the accident, the Tribunal has ordered for payment of a sum of ₹4,09,500/-. The appellant/claimant has impugned the finding of the Tribunal on negligence and also seeks for enhancement of the quantum of compensation.

2. The factual matrix in a nutshell are that on 03.12.2012, the claimant was riding his motorcycle along with a pillion rider and proceeding near Ramanahalli at about 5.45 pm, when a goods auto came from the opposite direction and hit the motorcycle causing the accident in question wherein the

¹ hereinafter referred to as the 'Tribunal'



claimant (rider of the motorcycle) sustained grievous injuries. Accordingly, he filed a claim petition (MVC No.521/2013) seeking for compensation. (It is to be noted that the pillion rider had filed MVC No.522/2013 which was also disposed of vide the impugned judgment and it is submitted that no appeal has been filed against the judgment and award passed in the said claim).

3. The claim proceedings were contested by the owner and the insurer of the offending auto rickshaw. The Tribunal, upon noticing the material on record held that the driver of the auto rickshaw was negligent to the extent of 75% and the rider of motorcycle (claimant in MVC No.521/2013) was negligent to the extent of 25% in causing the accident in question.

4. Learned counsel for the appellant submits that the said finding is erroneous and since the charge sheet has been filed against the driver of the auto rickshaw, the Tribunal ought to have recorded a finding that the driver of the auto rickshaw was entirely negligent in causing the accident in question.



5. Per contra, the learned counsel for the insurer justifies the finding of negligence recorded by the Tribunal.

6. The Tribunal while noticing the aspect regarding negligence has noticed that tar road runs north to south and is having 18 ft. width and that there is 3 ft. mud road on both sides of the road. It is forthcoming from the sketch that auto rickshaw was proceeding from south to north and the motorcycle was proceeding from north to south. The accident has occurred 5 ft. from the edge of the road on north-eastern side. The same discloses that the driver of the motorcycle was travelling on his side of the road and it is the driver of the auto rickshaw who was proceeding on the extreme right hand side of the road, at which place the accident occurred.

7. Having regard to the fact that the charge sheet has been filed against the driver of the auto rickshaw and taking note of the sketch - Ex.P4, prepared by the police authorities during the course of investigation, the finding recorded by the Tribunal fastening 25% negligence on the claimant/rider of the motorcycle is erroneous and liable to be interfered with. In the



given facts it is to be held that the driver of the auto rickshaw was entirely negligent in causing the accident in question.

8. With regard to the quantum of compensation, it is to be noticed that the claimant was aged 33 years as on date of the accident. Hence, the Tribunal has applied the appropriate multiplier of '16'.

9. The claimant is stated to be carrying on agriculture activities as well as timber business. However, no documents have been produced to prove his income. The Tribunal has assessed the monthly income of the claimant as ₹5,000/-. The notional income is required to be re-assessed as ₹7,000/- p.m.

10. The wound certificate (Ex.P6), the discharge summary (Ex.P8 to P12), the testimony of the doctor (PW -2) as well as the other medical evidence on record discloses that the claimant has sustained fracture of the middle shaft of the right radius; comminuted fracture of lower 1/3rd of right femur with gross displacement; comminuted fracture of upper 1/3rd of both bones of right leg with displacement; fracture of both nasal bones. The claimant has been treated as an inpatient on four



occasions. He was admitted for the first time on 06.12.2012 at Sanjay Gandhi Institute of Trauma and Orthopaedics and underwent surgery on 15.12.2012 consequent to which he was discharged on 27.12.2012. He was once again admitted on 27.12.2012 at Mallya Hospital, Bangalore and underwent surgery on 28.12.2012, consequent to which he was discharged on 02.01.2013. Thereafter, he was once again admitted on 02.01.2013 at Sanjay Gandhi Institute of Trauma and Orthopaedics and discharged on 24.01.2013. Thereafter, he was admitted on 20.05.2013 at Sanjay Gandhi Institute of Trauma and Orthopaedics and underwent three surgeries, consequent to which, he was discharged on 27.07.2013. The claimant was treated as in patient for a total period of 52 days. The doctor has deposed with regard to the number of times, the claimant was treated as inpatient as well as treatment undertaken as also nature of surgeries he had undergone. The doctor has assessed the whole body disability at 13%. The Tribunal has reduced the same to 10% without adequate reasons. The finding on disability by the Tribunal is erroneous and the disability of the claimant is to be re-assessed as 13% to the whole body.



11. In view of the aforementioned, the compensation is re-assessed as follows:

- i. Having regard to nature of injuries sustained as also the surgeries undergone, the compensation towards pain and suffering awarded by the Tribunal is just and proper;
- ii. The compensation awarded by the Tribunal towards medical expenses as well as future medical expenses is just and proper.
- iii. The Tribunal has not awarded any compensation towards food, nourishment, attendant charges and incidental expenses. Having regard to the nature of injuries sustained and period of treatment, a compensation of ₹25,000/- is awarded towards the same.
- iv. Having regard to the nature of injuries sustained and resultant disability, the loss of amenities is re-assessed as ₹30,000/- as against ₹15,000/- awarded by the Tribunal.



- v. The laid up period is taken as six months and the loss of income during the laid up period is re-assessed as (₹7,000x6) ₹42,000/-.
- vi. The loss of future earning capacity is re-assessed as (₹7,000 x 12 x 13% x 16) ₹1,74,720/- as against ₹96,000/- awarded by the Tribunal.

12. Accordingly, the compensation is re-assessed as follows:

Sl.No	Compensation Head	Amount Awarded by the Tribunal (₹)	Amount awarded by this Court (₹)
1	Pain and suffering	1,00,000.00	1,00,000.00
2	Medical expenses	3,10,000.00	3,10,000.00
3	Loss due to disability	96,000.00	1,74,720.00
4	Future Medical Expenses	25,000.00	25,000.00
5	Loss of amenities	15,000.00	30,000.00
6	Food, nourishment, attendant charges and incidental expenses		25,000.00
7	Loss of income during the laid up period		42,000.00
	Total	5,46,000.00	7,06,720.00

13. The Tribunal after assessment of the total compensation of ₹5,46,000.00 deducted 25% towards contributory negligence and ordered for payment of ₹4,09,500/-. Hence, the said amount of



₹4,09,500/- is required to be deducted from the total compensation of ₹7,06,720.00 as re-assessed by this Court.

14. Accordingly, the claimant is entitled to enhanced compensation of (₹7,06,720.00 - ₹4,09,500.00) = ₹2,97,220/-.

15. It is noticed that the Tribunal has awarded interest at 6% p.a. However, taking judicial notice of the interest payable towards fixed deposits, it is just and proper to award interest at the rate of 7% p.a., on the compensation as re-assessed by this Court.

16. In view of the aforementioned, I pass the following

ORDER

- i) The present appeal is partly allowed.
- ii) The judgment and award dated 01.09.2014 passed in MVC No.521/2013 is modified to the extent ordered herein. In all other respects, the judgment and award of the Tribunal remains unaltered;
- iii) The claimant-appellant is entitled to a further compensation of ₹2,97,220/- together with interest



@ 7% per annum from the date of petition till the date of realization in addition to the compensation awarded by the Tribunal;

- iv) Respondent No.3 - Insurer shall deposit the said compensation together with accrued interest within a period of six weeks;
- v) After deposit, the entire enhanced compensation with accrued interest shall be disbursed to the claimant digitally after proper identification;
- vi) The Registry to draw the modified award accordingly;
- vii) Records be transmitted to the Tribunal forthwith;
- vi) No costs.

SD/-
(C.M. POONACHA)
JUDGE

Vmb
List No.: 1 Sl No.: 29