



CNR: KAHC010444332019

NC: 2026:KHC:41531
MFA No. 8382 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

MISCELLANEOUS FIRST APPEAL NO.8382 OF 2019(MV-I)

BETWEEN:

MR. YADAV @ YADAVA DEVADIGA,
S/O ANTHAPPA DEVADIGA,
AGED ABOUT 45 YEARS,
R/AT 102, KATTEYANGADI HOUSE,
PALLI KARKALA, KARKALA TALUK,
UDUPI DISTRICT,
PIN-574 104

...APPELLANT

(BY MS. POOJA, ADVOCATE FOR
SRI. RAVISHANKAR SHASTRY G., ADVOCATE)

AND:

Digitally signed
by SOWMYA
DODDAMARAIAH
Location: HIGH
COURT OF
KARNATAKA

1. MR. SHREEDHARA GOWDA
S/O CHANDADAPPA GOWDA
ADULT,
R/AT PARPAJE HOUSE,
BARIMARU VILLAGE & POST,
BANTWAL TALUK,
D.K., PIN-574 219.
2. BRANCH MANAGER
UNITED INDIA INSURANCE CO. LTD.,
PRABHU BUILDING, OPP ARUNA TALKIES
MAIN ROAD, PUTTUR, D.K.

ITS DIVISIONAL MANAGER,
UNITED INDIA ASSURANCE CO. LTD
RAMBHAVAN COMPLEX, KODIALBAIL



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MANGALURU. D.K.
PIN-575 001.

...RESPONDENTS

(SRI. S. SRISHAILA, ADVOCATE FOR R2;
R1-SERVED AND UNREPRESENTED)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 22.07.2019 PASSED IN MVC NO.1609/2017 ON THE FILE OF THE I ADDITIONAL DISTRICT JUDGE AND MACT-II, MANGALURU (DK), 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 DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

Heard Ms.Pooja, who appears before this Court physically and represents Sri.Ravishankar Shastry.G learned counsel on record for the appellant as well as Sri.S.Srishaila who appears through video conference and represents respondent No.2.

2. Challenge in this appeal is the order that is rendered by the II Additional Motor Accident Claims



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Tribunal, Mangaluru in MVC No.1609/2017 dated 22.07.2019. This is a claimant's appeal.

3. The claimant, projecting that he sustained injuries in a road traffic accident that occurred in the year 2017 and the accident solely occurred due to rash and negligent driving of the rider of motorcycle bearing registration No.KA-19 EM-9705 filed petition claiming compensation of Rs.10,00,000/- in total. Tribunal gave finding to the effect that, appellant also contributed for the accident to occur and his contribution is 25%. The Tribunal held that total compensation which the appellant is entitled to receive is Rs.3,34,150/- and respondents are under liability to pay 75% of the same, which comes to Rs.2,50,613/-. Aggrieved by the findings given, this appeal is filed.

4. Arguing on the aspect of contributory negligence, learned counsel who represents the appellant submits that the appellant was proceeding on the left side



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of mud road at the relevant time. The motorcyclist drove the motorcycle at a high speed and in a rash and negligent manner and hit the appellant, who was proceeding on extreme left side of the road. Thus, appellant sustained injuries. Learned counsel contends that there was no negligence whatsoever on the part of the appellant and entire negligence was on part of the rider of the motorcycle. But without appreciating the evidence brought on record in proper way, Tribunal held that appellant contributed for the accident to occur.

5. On the other hand, learned counsel for respondent No.2 submits that appellant was proceeding by walk in the middle 1/3rd of the road, due to which he was hit by the motorcycle. Tribunal discussed about the aspect of negligence and finally held that the appellant also contributed for the accident to occur and such contribution is 25%. Appellant produced and relied upon Ex.P1 copy of FIR, Ex.P2 copy of Complaint, Ex.P4 copy of Spot Mahazar,



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Ex.P5 copy of Spot Sketch, Ex.P7 copy of Motor Vehicle Inspector's report and Ex.P10 copy of Charge Sheet. Respondent Nos.1 and 2 failed to produce any evidence in support of their version regarding the contributory negligence on part of the appellant. There is no material on record to show that the appellant was proceeding on middle 1/3rd of the road as contented by learned counsel for respondent No.2. The evidence produced, as rightly observed by the Tribunal, reveals that the appellant was proceeding on the extreme edge of the road. Such being the case, it cannot be held that the appellant contributed for the accident to occur. Therefore, this Court is of the view that contributory negligence attributed on part of the appellant is required to be set aside.

6. Coming to quantum, though appellant contended that he was working as cook by the date of accident, except producing Ex.P13 Salary Certificate, no other evidence was produced by him to establish his



occupation as on the date of accident. Therefore, Tribunal took the notional income of the appellant as Rs.10,000/- per month. However, considering the fact that the accident occurred in the year 2017 and for the relevant period, the Karnataka State Legal Services Authority is taking the notional income as Rs.11,000/- per month for settlement of claims, this Court considers desirable to take the notional income of the appellant at Rs.11,000/- per month.

7. Coming to the aspect of disability, Tribunal took the disability in respect of whole body as 12%. The submission that is made by learned counsel who represents respondent No.2 is that PW2 assessed the disability as 45% in respect of left lower limb and therefore, the disability in respect of whole body can be taken $\frac{1}{3}^{\text{rd}}$ of it i.e., 15%. Having considered the submission that is made by learned counsel for respondent No.2 himself, this Court considers desirable to take the



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disability in respect of whole body as 15%. Thus, having taken the notional income of the appellant as Rs.11,000/- per month, applying appropriate multiplier '14' and the disability in respect of whole body as 15%, the compensation which the appellant is entitled to receive towards loss of future earnings comes to Rs.2,77,200/- ($11,000 \times 12 \times 14 \times 15\%$). Tribunal granted a sum of Rs.2,01,600/- only towards loss of future earnings. However, it is clear that appellant is entitled to a sum of Rs.2,77,200/- towards loss of future earnings. Thus, additional sum which appellant is entitled to receive under the head 'loss of future earnings' comes to Rs.75,600/- ($\text{Rs.2,77,200} - \text{Rs.2,01,600}$). Compensation granted by the Tribunal under all other heads is justifiable. Thus, total sum which appellant is entitled to receive as compensation is Rs.4,09,750/- ($\text{Rs.3,34,150} + \text{Rs.75,600}$). Therefore, appeal is disposed of with the following:



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ORDER

- i. Appeal is allowed in part.
- ii. Contributory negligence attributed on the part of the appellant by the Court of II Additional Motor Accident Claims Tribunal, Mangaluru through orders in MVC No.1609/2017 dated 22.07.2019, is set aside.
- iii. Compensation granted by the Tribunal is enhanced from Rs.3,34,150/- to Rs.4,09,750/-.
- iv. Compensation granted shall carry interest at the rate of 6% per annum from the date of petition till the date of deposit.
- v. Respondent Nos.1 and 2 are jointly and severally liable to pay appellant a sum of Rs.4,09,750/- as compensation.
- vi. Respondent No.2 is directed to deposit the entire sum within a period of eight weeks from the date of receipt of certified copy of this judgment.



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- vii. On such deposit, appellant is permitted to withdraw the entire amount.

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

DS
CT:TSM
List No.: 1 SI No.: 27