



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCELLANEOUS FIRST APPEAL NO.7480 OF 2016(MV-I)

BETWEEN:

NATIONAL INSURANCE CO. LTD.,
HASSAN BRANCH,
SRI MANJUNATHESHWARA COMPLEX,
BUS STAND ROAD, HASSAN,
NOW REPRESENTED BY
REGIONAL MANAGER,
NATIONAL INSURANCE CO. LTD.,
REGIONAL OFFICE,
SUBHARAM COMPLEX,
144, M.G. ROAD,
BANGALORE - 560 001.

...APPELLANT

(BY SRI. A. N. KRISHNA SWAMY, ADVOCATE)

AND:

1. DHARANESHA M.B. @
DHARANESHAMURTHY,
S/O. M.V. BASAPPA,
NOW AGED ABOUT 45 YEARS,
R/O CHAITHNYA NILAYA,
I CROSS, VIDYANAGARA,
L B S LAYOUT,
SHIVAMOGGA CITY - 577203.
2. M. MURUGESHA,
S/O. MUNISWAMY,
R/O. VALLABHABAI ROAD,
HASSAN,

Digitally signed
by
NAGARATHNA
TEKAL
SUBBARAO
Location: HIGH
COURT OF
KARNATAKA



PRESENT ADDRESS
BITTAGONDANAHALLI VILLAGE,
HASSAN TALUK & DISTRICT.

3. PRAVEEN,
S/O. HANUMAIAH @ HANUMANNA,
MAJOR, OWNER OF AUTORICKSHAW,
R/O KONDAJJI VILLAGE,
SEAGE POST, SALAGAME HOBLI,
HASSAN TALUK & DISTRICT – 573219.
4. MALLESHA,
S/O. EREGOWDA,
NOW AGED ABOUT 44 YEARS,
R/O. KOKKANAGHATTA VILLAGE,
HASSAN TALUK – 573201.
5. K.S. MALLIKARJUNA,
S/O. SHIVAPPA,
NOW AGED ABOUT 50 YEARS,
TEACHER, GHPS,
HOLEBELLURU VILLAGE,
R/O. HASSAN CHANNAPURA,
HASSAN – 573201.

...RESPONDENTS

(BY SMT. PUSHPALATHA. Y, ADVOCATE FOR R1;
R2 TO 4 SERVED AND UNREPRESENTED;
V/O DATED 30.07.2025 NOTICE TO R5 IS DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 17.06.2016 PASSED IN MVC
NO.1052/2012 ON THE FILE OF THE 1ST ADDITIONAL SENIOR CIVIL
JUDGE & ADDITIONAL MACT-7, SHIVAMOGGA, AWARDED
COMPENSATION OF RS.1,47,700/- WITH INTEREST AT 6% P.A.
FROM THE DATE OF PETITION TILL THE DATE OF DEPOSIT.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

Heard the learned counsel appearing for the appellant and learned counsel appearing for the respondents.

2. Being aggrieved by the judgment and award in MVC.No.1052/2012 dated 17.06.2016 by learned I Addl. Senior Civil Judge and Addl. MACT-VII, Shivamogga, respondent No.3/Insurance Company is before this Court in appeal.

3. The factual matrix of the case is that on 26.12.2011, the petitioner and his co-brother were moving on a motorcycle and the petitioner was to be dropped at KSRTC bus stand since he was a driver in KSRTC at Hassan. At about 09.45 pm., respondent No.1 being the driver of the auto rickshaw bearing No.KA13/A-1245 came from opposite side in a rash and negligent manner and dashed to the motorcycle, whereby the petitioner fell down. The petitioner sustained injuries in the said accident and he was immediately shifted to Chamarajendra Hospital, Hassan and thereafter to NIMHANS Hospital. It was contended that the petitioner has sustained grievous injuries in the said accident and since he was a KSRTC



driver, he had sustained loss and injury and as such he is entitled for the compensation. In the petition, it was stated that the petitioner is not in a position to earn extra monetary benefits and he had to take rest for about four months without salary. The accident being due to the negligence on the part of the driver of the auto rickshaw, the owner and insurer of the auto rickshaw are liable to pay the compensation to the petitioner.

4. During pendency of the petition, respondent No.5 was impleaded since he was the owner of the auto rickshaw. Respondent Nos.1 and 3 have appeared before the Tribunal and filed their objections to the petition. They denied the case of the petitioner and they alleged that the accident had occurred due to the negligence on the part of the rider of the motorcycle and therefore, the petition deserves to be dismissed. *Inter alia* they have also contended that the documents have been created by the petitioner to suit his case even though no such injuries were suffered by the petitioner. Respondent No.3 also contended that there were violations of the terms and conditions of the policy by the auto rickshaw driver and



therefore, its liability be absolved. Respondent No.5 had contended that the accident was due to the negligence of respondent No.1 and as such he is not liable for any compensation. Respondent No.5 had contended that he had not at all contributed any negligence for the accident and as such petition as against him be dismissed. He stated that he also had filed a claim petition and he also had filed an appeal in respect of his claim.

5. On the basis of the above contentions, the Tribunal framed appropriate issues. The petitioner was examined as PW1 and Ex.P1 to Ex.P29 were marked. The official of the Insurance Company was examined as RW1 and Ex.R1 to Ex.R3 were marked. After hearing the arguments, the Tribunal held that the petitioner is entitled for compensation from respondent No.3/Insurance Company and it awarded compensation of Rs.1,47,700/- under the following heads.

Sl. No.	Heads of Compensation		Amount granted
1.	Medical expenses	Rs.	28,000/-
2.	Conveyance expenses	Rs.	19,700/-
3.	Pain and suffering	Rs.	1,00,000/-
	Total	Rs.	1,47,700/-



6. Being aggrieved by the same, respondent No.3/Insurance Company is before this Court. Learned counsel appearing for the appellant/Insurance Company firstly submits that the petitioner had sustained only minor injuries in the said accident and there were no such grievous injuries as contended by him. There are two sets of medical certificates in the form of Ex.P2 and Ex.R3 which are divergent and therefore, the petitioner had played fraud upon the Court. It is contended that the wound certificate and Ex.R3 produced by the Insurance Company shows that there were only minor and simple injuries suffered by him and therefore, claiming the compensation on the basis of certain grievous injuries is not sustainable. It is submitted that the Tribunal has not properly appreciated this evidence.

7. Secondly, he submits that the petitioner has not produced any material to show that he was on leave from his duties and therefore, the alleged injuries suffered by the petitioner itself is doubtful. He points out to the replies given by the petitioner to the Court questions and submits that those replies have not been properly considered by the Tribunal.



8. His third prong of the argument is that the compensation awarded by the Tribunal is on the higher side and therefore, the same needs to be reassessed.

9. Per contra, learned counsel appearing for the respondents submits that the Tribunal has considered the evidence on record in the proper perspective and there is no need for any interference. It is submitted that the evidence on record clearly shows that Ex.R3 was issued to the police only on the basis of the *prima facie* appearance of the injuries and later when the petitioner was shifted to NIMHANS, X-rays and scans were taken and then it revealed the underlying fractures under the simple injuries. Therefore, it is submitted that the Tribunal having considered these aspects in detail, there is no need for any indulgence either to hold that there is any fraud or that the compensation awarded is on the higher side.

10. Coming to the first contention of the appellant, it is pertinent to note that Ex.P2 dated 23.02.2012 mentioned the following injuries:

"1. Contusion over left frontal region 2X2 cm,



- 2. Abrasion over right knee region 1X0.5X1cm.*
- 3. Abrasion over left knee 1X0.5X1 cm.*
- 4. Pain tenderness over left shoulder region 0.5X1 cm.*
- 5. CT-Head-EDH left frontal region.*
- 6. Swelling and deformity at right ankle fibula."*

11. After observing the above injuries, it is observed that injury Nos.1, 2, 3 and 4 are simple and injury Nos.5 and 6 are grievous in nature. This document was issued by one Dr. Nagaraja K. of Chamarajendra Hospital, Hassan. The perusal of Ex.R3 produced by the Insurance Company shows the injury Nos.1 to 4 mentioned above in Ex.P2 and then the fifth injury is shown to be pain and tenderness over the left shoulder. The same medical officer who issued Ex.P2 has also issued Ex.R3 and it is dated 31.01.2012 and it was received by the Investigating Officer on 16.02.2012.

12. The petitioner has also produced the emergency case record of the NIMHANS Hospital at Ex.P29. This document shows that the petitioner had approached NIMHANS Hospital on 27.12.2011 in the morning hours and had complained of injury



having suffered on 26.12.2011 in a road traffic accident. The record also shows that he was hit by an auto rickshaw at Hassan. It was recorded that there is a fracture of fibula of the lower one third and there was injury over the left temporal scalp and right cheek. It was observed that the left temporal pole is thin and there is extradural hemorrhage and there was no 'reidlene' shift, no mass effect. It was opined that it was a mild head injury. He was advised to be treated with medication.

13. The MLC record is also produced at Ex.R2 and it is in consonance with Ex.R3. Obviously the MLC Extract is the first record which comes into existence spontaneously and as such there cannot be any dispute about it. What is written in Ex.R2 is reproduced in Ex.R3.

14. The Tribunal, in its judgment has compared Ex.P2 and Ex.R3 in detail and has come to the conclusion that the doctors who had found the abrasion over the right ankle as mentioned in Ex.R3 had obtained the X-rays and later they found that the petitioner had suffered the fracture of the fibula on the right ankle and therefore, Ex.R3 reflects the immediate observations made by the medical officers and Ex.P2 reflects



the observations found after proper diagnosis was made in respect of the underlying external injuries. This observation of the Tribunal cannot be found fault with when these two wound certificates at Ex.P2 and Ex.R3 are examined in the light of Ex.P29.

15. Second contention of the learned counsel appearing for the appellant/Insurance Company is that the petitioner has not produced any record to show that he was on leave without pay. It is submitted that contrary to the contentions taken up in the petition, PW1 has answered in the cross examination that he had not applied for any leave without pay. In the cross examination it may be found that he has stated that he had more than 240 days of earned leave. When it was asked to him whether he has produced any document, he has stated that he did not produce any documents. That does not mean that the petitioner was not on leave. What was asked to him was that whether he was on leave without pay. Therefore, the cross-examination cannot infer that he was not at all on leave. Obviously he was to be dropped at KSRTC bus stand for the purpose of joining the duty, but he met with an accident and on



the very next day he was taken to NIMHANS where he has taken treatment as reflected in Ex.P29. Therefore, the contention that the petitioner had not applied for any leave also cannot be accepted.

16. Coming to the quantum of the compensation amount awarded by the Tribunal, it may be noted that the conveyance expenses of Rs.19,700/- is reflected from Ex.P27 and Ex.P28. Obviously the petitioner had to be shifted to NIMHANS Hospital in an ambulance since a head injury was noted. There is material to show that the petitioner was treated at NIMHANS. In addition to it, he has also produced medical bills worth Rs.7,931/-. A careful perusal of the records would reveal that the total medical expenses was only Rs.7,931/- and the ambulance charges was to the tune of Rs.19,700/-. Therefore, award of medical expenses at Rs.28,000/- is not sustainable and only a sum of Rs.8,000/- would be sustainable.

17. Insofar as pain, suffering and other relevant heads are concerned, the Tribunal has awarded a global compensation of Rs.1,00,000/-. It is relevant to note that the petitioner had sustained the head injury and fracture of the right fibula.



Therefore, by taking into the account the expenses that may be incurred towards the attendant's charges, nourishment, pain and suffering, the difficulty which he has undergone and the earned leave which he has spent, though it is not brought on record, this Court is of the view that the said amount of Rs.1,00,000/- is proper and no interference is required in the same. In the result, the medical expenses have to be restricted to Rs.8,000/- only.

18. For aforesaid reasons, the appeal succeeds in part.
Hence the following:

ORDER

- i. The appeal is ***allowed-in-part***.
- ii. The petitioner is entitled for a total compensation amount of ***Rs.1,27,700/-*** instead of Rs.1,47,700/-. Rest of the order passed by the Tribunal remains unaltered.

**Sd/-
(C M JOSHI)
JUDGE**