



CNR: KAHC010455252015

NC: 2026:KHC:52064-DB
MFA No. 8162 of 2015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

MISCELLANEOUS FIRST APPEAL NO. 8162 OF 2015 (MV-I)

BETWEEN:

SRI. MUNIVENKATAPPA
ALIAS CHINNODU
S/O SOMAPPA
AGED ABOUT 42 YEARS
R/AT LAKSHMIPURA VILLAGE AND POST
SRINIVASAPURA TALUK
KOLAR DISTRICT

...APPELLANT

(BY SMT: SUGUNA R REDDY, ADVOCATE)

AND:

Digitally signed
by PAVITHRA B
Location: HIGH
COURT OF
KARNATAKA

1. MR. SAMIULLA KHAN
S/O ALLA JAN KHAN
MAJOR IN AGE
R/AT D.NO.90
VASANTHAPPA GARDEN
GANGANAGAR
BANGALORE-32
2. THE BRANCH MANAGER
M/S UNITED INDIA INSURANCE CO. LTD .,
SLN BUILDING, MOTHER DAIRY CIRCLE
MAJOR SANDEEP UNIKRISHNAN ROAD



CNR: KAHC010455252015

NC: 2026:KHC:52064-DB
MFA No. 8162 of 2015

GKVK POST, NEW TOWN
YELAHANKA, BANGALORE-65

...RESPONDENTS

(BY SMT. GEETHA RAJ, ADVOCATE FOR R2;
VIDE ORDER DATED 13.07.2026, SERVICE
OF NOTICE TO R1 IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 19.03.2015 PASSED IN MVC NO.3066/2013 ON THE FILE OF THE III ADDITIONAL SENIOR CIVIL JUDGE, COURT OF SMALL CAUSES, MACT, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS MFA, COMING ON FOR DISMISSAL, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE T.P.VIVEKANANDA

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.P.VIVEKANANDA)

This appeal is by the injured – claimant who is not satisfied with the compensation awarded by the III Additional Senior Civil Judge and Motor Accident Claims Tribunal, Bengaluru (SCCH-18), in its award dated 19.03.2015 in MVC No.3066 of 2013 in respect of the bodily injuries suffered by him in the motor accident occurred on 20.09.2012.



CNR: KAHC010455252015

NC: 2026:KHC:52064-DB
MFA No. 8162 of 2015

2. Brief facts as noted by the Tribunal in the judgment impugned are that the appellant - claimant was riding the motorcycle bearing registration No.KA-53-J-5692 on BC road and when he reached Battuvaripalli cross of Srinivasapura Taluk, the driver of Maruthi Omni van bearing registration No.KA-03-P-0887 came in a rash and negligent manner and dashed against the vehicle of the claimant, which resulted in claimant falling down and sustained grievous injuries. On account of the serious injuries to the right leg and the surgery undergone having not been successful, the right leg of the claimant below the knee had been amputated. In order to claim compensation for the injuries sustained, the claimant had approached the Tribunal.

3. Notice having been issued in the said proceedings, respondent No.2 - insurer opposed the claim petition contending that the accident had occurred due to the negligent driving of the claimant and denied the occupation, earning, medical expenses said to have been incurred by the claimant.

4. In support of the claim, the claimant was examined as PW1 and in order to prove the injuries and medical



CNR: KAHC010455252015

NC: 2026:KHC:52064-DB
MFA No. 8162 of 2015

treatment availed by the claimant, doctor was examined as PW2. The relevant portion of deposition of PW2 - doctor regarding the injuries suffered by the claimant is as follows:

I, Dr. Imran Hussain S/o Ahamed Hussain, aged 33 years, working as Orthopedic Surgeon at Sri Gaurav Orthopaedic Hospital, Kolar, today at Bengaluru, I do hereby solemnly affirm and state on oath as follows:-

I submit that I have examined Sri.Munivenkatappa, male, aged about 50 years, by occupation coolie, with history of old R.T.A occurred on 20-09-2012, immediately he was taken to R.L. Jalappa Hospital, Kolar. In the hospital, X-rays were taken and clinical examination was done and injuries confirmed.

a) Open type IIIB fracture of both bones of right leg was noticed.

In the hospital he was treated with surgery i.e., ORIF for right tibia, K-wire for fibula and calcanium. Due to impending vascular problem patient developed gangrene of right leg and hence after taking consent, right side below knee amputation was performed and the patient was discharged on 23.10.2012 with advice of regular follow-up on OPD basis for which he used to attend regularly.

I further submit that recently on 04.01.2015, I have examined him for assessment of disability clinically and with X-rays. He complains of phantom limb pain,



CNR: KAHC010455252015

NC: 2026:KHC:52064-DB
MFA No. 8162 of 2015

and he walks wearing prosthesis. On examination there is amputated remanent of right leg with puckered scar and decreased sensation along with prosthesis.

I further submit that X-ray of the both leg show amputation of right tibia and fibula at level of mid third with remnants of bone. By using the guidelines set by Govt. of India according to gazette notification issued by ministry of social justice dated June 13th 2001, the disability for right lower limb is 65% and whole body is 33%, functional disability of 100%.

I further submit that he cannot perform his previous above said occupation.

I am here with producing the a) Recent clinical examination notes, b) recent for kind x-ray, for kind consideration of this Hon'ble Court.

I, the Deponent above named do hereby state that this is my name and signature, the contents of this Affidavit are true and correct to the best of my knowledge, information and belief."

5. PW2 has deposed that the claimant has suffered disability of 65% to the right lower limb and suffered disability to the extent of 33% to the whole body and functional disability at 100%.



CNR: KAHC010455252015

NC: 2026:KHC:52064-DB
MFA No. 8162 of 2015

6. As regards the claim for compensation for loss of future earning capacity, the claimant has contended that he was working as coolie and earning Rs.300/- per day. On the date of accident, claimant was aged 40 years. Considering the disability at 33% in respect of the whole body and taking the income at Rs.6,000/- per month multiplied by 15, the Tribunal has awarded compensation of Rs.3,56,400 ($6,000 \times 12 \times 33\% \times 15$) towards loss of future income. The Tribunal has awarded Rs.40,000/- towards pain and suffering, Rs.25,000/- towards loss of amenities, Rs.40,000/- towards attendant, nourishment and conveyance charges. The Tribunal has further awarded compensation of Rs.30,000/- towards loss of income during laid up period. Though the claimant had contended that he has spent Rs.1,00,000/- towards medical expenses however, taking note of the medical bills produced, the Tribunal has awarded Rs.25,000/- towards medical expenses. In all, the Tribunal has awarded total sum of Rs.5,20,000/-.

7. The insurer has led evidence through one of his official RW1 and ARTO as RW2 to prove its contention that as on the date of accident, the driver of the offending vehicle had



CNR: KAHC010455252015

only learner license to drive the LMV. The Tribunal taking note of the evidence of RWs.1 and 2 and on perusal of the conditions stipulated in the learner license had come to the conclusion that there is a violation of policy condition and therefore, the insurer cannot be made liable to indemnify respondent No.1 - owner of the vehicle. Accordingly, while allowing the claim petition of the claimant in part, fastened the liability of payment of compensation on the owner of the vehicle.

8. The present appeal by the claimant is not only for enhancement of compensation, however, it is also for fastening the liability on the insurer. So far as the liability of insurer is concerned, learned counsel for the appellant places reliance on the judgment of the Hon'ble Supreme Court in ***M/s Chatha Service Station Vs Lalmati Devi and Others***¹ and contends that even in the absence of driver of the offending vehicle not holding the valid driving license, the liability of payment of compensation should have been fastened on the insurer with liberty to the insurer to pay the compensation and then recover it from the owner of the vehicle.

¹ AIR 2025 SC 2324



CNR: KAHC010455252015

9. In the present case on hand, the finding of the Tribunal is that the driver of the offending vehicle though had LLR however he was not accompanied by a person holding valid driving licence. Therefore, he violated the policy condition. This finding according to us is erroneous. It is now well established by series of judgments of the Hon'ble Supreme Court that when there is breach of policy condition necessary corollary is to direct pay and recovery. Therefore, the finding of the Tribunal regarding liability is set at naught.

10. Insofar as the quantum of compensation is concerned, learned counsel for the appellant submits that the compensation awarded by the Tribunal under each of the heads is inadequate and is not commensurate with the injuries sustained by the claimant and seeks for enhancement of compensation. She further submits that it is an admitted fact that the right leg of the claimant has been amputated below the knee and the claimant is required to use the prosthetic leg for which he has to spend huge money. The said fact has not been taken into consideration by the Tribunal.



CNR: KAHC010455252015

11. Learned counsel for the appellant – claimant places reliance on the judgment of the Hon'ble Supreme Court in ***Prahlad Sahai Vs Haryana Roadways and another***² and contends that in the case of amputation of leg, the Hon'ble Supreme Court has granted compensation for purchase of prosthetic limb, with a constructive lifespan of 70 years with a block of 5 years as a reasonable replacement period for prosthetic limb by adopting the same analogy and taking note of the approximate cost of the prosthetic limb considered by the Hon'ble Supreme Court may be granted to the appellant also.

12. We have heard the learned counsel for the appellant - claimant, learned counsel for the insurer and perused the appeal papers, so also, records of the Tribunal.

13. As detailed above, it is a case of amputation of right leg below the knee level. Admittedly, the claimant was a coolie aged 40 years. Without the right leg, it is not possible for the claimant to undertake the coolie work. It is in the said

² AIR 2026 SC 2024



CNR: KAHC010455252015

circumstances, the doctor has assessed the disability of the right lower limb at 65%. However, when it comes to the whole body disability, the Tribunal has reduced it to 33%. Though the doctor has assessed functional disability at 100%, however, the Tribunal has considered only 33% for the purpose of grant of compensation towards loss of future earning capacity, which according to us, is erroneous. Inasmuch as, the amputation of right leg below the knee level is not in dispute. Therefore, for all practical purposes the disability of the claimant is 100%, since he is coolie.

14. Taking note of over all circumstances, so also, the evidence of the doctor, we are of the opinion that for the purpose of assessment of compensation for future loss of earning capacity, the disability of 65% requires to be taken. Since the accident is of the year 2012, the notional income of Rs.7,000/- should have been considered. Since there is no proof of permanent job, the future prospects that could be added is only 25% because age of the claimant as on the date of accident is 40 years. Accordingly, we propose to assess the



CNR: KAHC010455252015

compensation for loss of future earning capacity at **Rs.10,23,750/-** (7000 + 1750 (25%) x 12 x 15 x 65%).

15. As held by the Hon'ble Supreme Court in ***State of Haryana and Another Vs Jasbir Kaur and Others***³, the compensation for loss of limbs can hardly be weighed in golden scales and one cannot expect a mathematical exactitude in arriving at just and reasonable compensation.

16. In the present case, the age of the claimant at the time of accident was 40 years and presently his age appears to be 53 years. So far, no evidence is produced to show that the claimant has purchased prosthetic limb and spent amount for purchase of the same. However, taking into consideration the approximate lifespan of 70 years as observed by the Hon'ble Supreme Court in ***Prahlad Sahai*** (*supra*), and taking into consideration the present age of the appellant, the remaining life span would be around 17 years. Therefore, we are of the opinion that the 5 years block period is considered the appellant would require atleast 3 prosthetic limbs, approximate

³ AIR 2003 SC 3696



CNR: KAHC010455252015

value of about Rs.3,00,000/- each and the replacement expenses of around Rs.15,000 for each of the limbs. Accordingly, we hold that the appellant – claimant is entitled for **Rs.10,00,000/-** for purchase and maintenance of prosthetic limbs for 3 in number for the remainder period of approximate lifespan.

17. Considering the nature of injuries and amputation of right leg and the period of treatment undergone by the claimant, we are of the opinion that the compensation awarded under the heading pain and suffering needs to be enhanced to **Rs.75,000/-** as against Rs.40,000/- granted by the Tribunal. The Tribunal has awarded a sum of Rs.30,000/- towards loss of earning during laid up period of about 5 months at Rs.6,000/- per month. Since we have considered the notional income of Rs.7,000/- for the purpose of assessment of compensation for loss of future earning capacity, we are of the opinion that the appellant shall be made entitled for compensation for loss of earning during laid up period for 6 months at the rate of Rs.7,000/- per month. Therefore, as against Rs.30,000/- awarded by the Tribunal, the claimant is entitled for



CNR: KAHC010455252015

NC: 2026:KHC:52064-DB
MFA No. 8162 of 2015

Rs.42,000/-. The compensation awarded by the Tribunal under the heading food, nourishment, conveyance and attendant charges at Rs.40,000/- is inadequate. Therefore, as against Rs.40,000/, the appellant - claimant appellant is entitled for **Rs.60,000/-**. As regards the loss of amenities is concerned, any amount of compensation would not bring back the amenities which an able-bodied person would enjoy. However, as a hypothetical calculation, we are of the opinion that the claimant should be made entitled for the compensation of **Rs.75,000/-** as against Rs.25,000/- awarded by the Tribunal. Thus, the total entitlement of the claimant is summarized as follows:

Sl. No.	Particulars of heads	As per the Award of MACT	Re-assessed compensation (Rs.)
1	Pain and Sufferings	40,000/-	75,000/-
2	Medical Expenses	25,000/-	25,000/-
3	Loss of income during laid up period	30,000/-	42,000/-
4	Nourishment, conveyance & attendant charges	40,000/-	60,000/-
5	Loss of future income	3,60,000/-	10,23,750/-
6	Loss of amenities	25,000/-	75,000/-
7	Purchase of Prosthetic limb	-	10,00,000/-
	Total	5,20,000/-	23,00,750/-



CNR: KAHC010455252015

NC: 2026:KHC:52064-DB
MFA No. 8162 of 2015

The total re-assessed compensation, to which the appellants are entitled is **Rs.23,00,750/-**.

18. In the result,

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

(ii) The judgment and award dated 19.03.2015 in MVC No.3066 of 2013 passed by the III Additional Senior Civil Judge and Motor Accident Claims Tribunal, Bengaluru (SCCH-18), is modified.

(iii) The appellant is entitled for total re-assessed compensation of **Rs.23,00,750/-** as against the compensation already granted by the Tribunal in a sum of Rs.5,20,000/-.

(iv) Out of the enhanced compensation, the appellant is not entitle for interest on Rs.10,00,000/- awarded towards cost of prosthetic and remaining amount shall carry interest at 9% per annum from the date of petition, till its realization.

(v) The release and deposit of the enhanced compensation shall be in terms of the award of the Tribunal.

(vi) Since we have held that the liability fastened on the owner of the vehicle is erroneous, respondent No.2 – insurer will have to first pay the compensation to the appellant/claimant and then proceed against respondent No.1



**NC: 2026:KHC:52064-DB
MFA No. 8162 of 2015**

CNR: KAHC010455252015

for recovery as held by the Hon'ble Supreme Court in
M/s. Chatha Service Station (*supra*).

Registry is directed to transmit the Trial Court records,
forthwith, along with the copy of this judgment, for needful
action.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(T.P.VIVEKANANDA)
JUDGE**

BGN
List No.: 1 Sl No.: 28