

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 10<sup>TH</sup> DAY OF APRIL, 2026**

**BEFORE**

**THE HON'BLE DR. JUSTICE K.MANMADHA RAO**

**MISCELLANEOUS FIRST APPEAL NO. 7070 OF 2022 (MV-I)**

**BETWEEN:**

SHASHIDHAR PATIL @  
SHASHIDHAR GOUDA  
S/O PALANETHRA GOUDA,  
AGED ABOUT 50 YEARS,  
R/AT: C/O MUNIRAJU BUILDING,  
OPP. CANARA BANK  
ANEKAL ROAD,  
ATTIBELE TOWN,  
BENGALURU-562 107.

...APPELLANT

(BY SRI.PAVAN KUMAR Y.N.,ADVOCATE)

**AND:**

1. VENKATESH. N  
S/O NALAPPA  
AGED IN MAJOR  
R/AT: NO.1469  
CHANDAPURA CIRCLE,  
HEBBAGODI  
BENGALURU-560 099.
2. IFFCO TOKIO GENERAL INSURANCE CO.LTD,  
SRI. SHANTHI TOWERS,  
NO.141, 5<sup>TH</sup> FLOOR, 3<sup>RD</sup> MAIN  
EAST TO NGEF LAYOUT,  
KASTURINAGAR  
BENGALURU-560 043  
BY ITS MANAGER.

...RESPONDENTS

(BY SRI.B.PRADEEP,ADVOCATE FOR R2,  
R1-NOTICE HELD SUFFICIENT, VIDE ORDER DATED  
29/01/2026.)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 05.07.2022 PASSED IN MVC NO.4091/2019 ON THE FILE OF THE MEMBER, MACT, C/C XVI ADDITIONAL JUDGE, COURT OF SMALL CAUSES, BENGALURU SCCH-14, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 12.03.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE DR. JUSTICE K.MANMADHA RAO

### **CAV JUDGMENT**

This appeal is by the appellant/claimant seeking for enhancement of compensation arising out of judgment and award dated 05.07.2022 in MVC No.4091/2019, passed by the Motor Accident Claims Tribunal, Bengaluru (SCCH-14) (for short, 'Tribunal').

2. The parties are referred to as per their ranking before the Tribunal for easy reference.

3. The brief facts of the case are that:-

On 18.09.2018 at about 10.00 p.m., the petitioner was crossing the road in front of MJR Builders Company, at that time, a Motorcycle bearing Reg.No.KA-51-EK-6614

came in a rash and negligent manner and dashed against the petitioner. Due to which, the petitioner fell down and sustained grievous injuries all over the body and was immediately shifted to Sparsh Hospital, Hosur Road, Bengaluru. Hence, filed claim petition under Section 166 of M.V. Act, 1989 seeking for compensation of Rs.10,00,000/-.

4. After issuance of notice, the respondent No.2/Insurance Company has appeared through its counsel and filed statement of objections. Respondent No.1/owner of the offending vehicle remained absent and was placed *ex-parte*.

5. In order to substantiate the case of the petitioner, the petitioner got himself examined as PW-1 and examined treated Doctor as PW-2 and got marked documents at Exs.P1 to P12. On the other hand, respondent No.2 examined three witnesses as RW-1 to 3 and got marked two documents as Exs.R.1 and R.2.

6. On the basis of the pleadings of the parties, the Tribunal framed the issues and held that the owner of the offending vehicle is held liable to pay a total compensation of Rs.2,53,534/- to the petitioner with interest at the rate of 6% per annum from the date of petition till realization and dismissed the claim petition against the Insurance Company.

7. Learned counsel for the appellant submits that as per Ex.P.4, wound certificate and Ex.P.6 – discharge summary, appellant has sustained intertrochanteric fracture of right femur, which is grievous in nature. As per Ex.P.6 – Discharge summary, petitioner was treated as an inpatient for a period of 05 days from 18.09.2018 to 22.09.2018. The Tribunal has not properly considered the case of the appellant and awarded meager compensation under all heads, which require enhancement. Accordingly, sought to allow the appeal and enhance compensation by modifying the judgment and award passed by the Tribunal.

8. Refuting the submissions of learned counsel appearing for the appellant, learned counsel for the respondent No.2 submits that the Tribunal after considering entire material placed before it, awarded appropriate compensation. The compensation awarded by the Tribunal is just and proper and does not call for any interference at the hands of this Court. Accordingly, sought to dismiss the appeal.

9. Heard the learned counsel appearing for the appellant and respondent No.2 and perused entire material on record.

10. It is not in dispute that appellant has sustained fracture stated *supra*. The appellant has examined the treated Doctor as PW-2, who has stated that petitioner has suffered disability to an extent of 36% to the left lower limb and 12% to the whole body. The Tribunal has taken the disability of the claimant at 6% to the whole body, which is on the lower side. Considering the fracture sustained by the claimant and evidence of the Doctor, it is

just and proper to take 12% disability to the whole body. The Tribunal has rightly taken income of the claimant at Rs.18,874/- per month by considering the salary slip produced at Ex.P.8 issued by the MJR Builders Pvt. Ltd. The appellant was aged about 47 years at the time of accident. Hence, multiplier applicable is '13'. Hence, a sum of **Rs.3,53,321/-** ( $18,874 \times 12 \times 13 \times 12\%$ ) is awarded under the head 'loss of future income due to disability'.

11. The Tribunal has awarded a sum of **Rs.20,000/-** under the head 'Pain and sufferings', which is just and reasonable.

12. The Tribunal has awarded a sum of **Rs.10,000/-** towards 'Medical Expenses' which is as per medical bills and reasonable.

13. The Tribunal has awarded a sum of **Rs.18,874/-** towards 'loss of income during the laid up period' by considering the nature of injury sustained by the appellant, which is just and reasonable.

14. The Tribunal has awarded a sum of **Rs.8,000/-** towards 'Attendant, nourishment and conveyance charges', which is just and reasonable.

15. Insofar as 'loss of amenities' is concerned, the Tribunal has awarded a sum of **Rs.20,000/-**, which is just and reasonable.

16. In all, the total compensation re-determined by this Court under various heads is as follows:

|    |                                                |   |            |                   |
|----|------------------------------------------------|---|------------|-------------------|
| 1. | Pain and Sufferings                            | : | Rs.        | 20,000/-          |
| 2. | Attendant, nourishment and conveyance expenses | : | Rs.        | 8,000/-           |
| 3. | Medical Expenses                               | : | Rs.        | 10,000/-          |
| 4. | Loss of amenities                              | : | Rs.        | 20,000/-          |
| 5. | Loss of income during laid up period           | : | Rs.        | 18,874/-          |
| 6. | Loss of future income due to disability        | : | Rs.        | 3,53,321/-        |
|    | <b>TOTAL</b>                                   | : | <b>Rs.</b> | <b>4,30,195/-</b> |

17. On re-determination, the appellant is entitled for total compensation of Rs.4,30,195/- rounded off to **Rs.4,30,200/-** as against Rs.2,53,534/- along with

interest at the rate of 6% per annum from the date of petition till realization.

**Regarding pay and recovery:**

18. In the present case, the Tribunal has observed that the accident has been occurred due to rash and negligent riding on the part of the rider of the Motorcycle bearing No.KA-51-EK-6614 and the policy is valid at the time of the accident. The charge sheet at Ex.P.5 shows that on the alleged date of accident, the rider of the motorcycle did not possess driving licence to ride the offending vehicle. Accordingly, the charge sheet shows Section 3 (1) read with Section 181 of IMV Act. Further, RW-1 being the Superintendent of RTO has deposed that on inspection of their office documents, they did not get DL particulars of Hemanth Kumar, rider of the offending motorcycle at the time of the accident. The said witness is not cross-examined by the respondent No.1, who is the owner of the offending vehicle. Further, in the cross-examination of RW-2, i.e., IO has admitted that as per the charge sheet, the rider of the offending vehicle did not

possess driving licence as on the date of accident. It is pertinent to note that neither respondent No.1 being the owner had appeared before the Court nor made any efforts to get know the driving licence of the rider of the offending vehicle. Therefore, the Tribunal is correct in exonerating the Insurance Company from paying compensation to the claimant. However, as per Sub-Section (2) of Section 149 of Motor Vehicle Act, 1988 (hereinafter referred to as 'the Act', for short) when the Insurance Company established the fact that the rider was not holding driving licence, then as per Sub-sections (1), (4), (7) of Section 149 of the Act, the Insurance Company as if the judgment debtor shall satisfy the claim in respect of third parties and then recover the same from the owner of the offending vehicle. Accordingly, the order of pay and recovery is made as per the principle of law laid down by the Hon'ble Supreme Court in the cases of **PAPPU AND OTHERS Vs. VINOD KUMAR LAMBA AND ANOTHER<sup>1</sup>; NATIONAL INSURANCE COMPANY LIMITED VS.**

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<sup>1</sup> (2018) 3 SCC 208

**SWARAN SINGH AND OTHERS<sup>2</sup>** and also as per the full bench decision of this Court in the case of **NEW INDIA ASSURANCE COMPANY LIMITED VS. YELLAVVA AND ANOTHER<sup>3</sup>**. Accordingly, an order of pay and recovery is made. To this extent, the judgment and award passed by the Tribunal is modified.

19. Respondent No.2 – Insurance Company is directed to deposit the compensation amount within eight weeks from the date of filing of the petition till realization and shall recover the same from the owner of the offending vehicle.

20. Accordingly, I proceed to pass the following:

**ORDER**

- i) The appeal is ***allowed-in-part***.
- ii) The judgment and award passed by the Tribunal in MVC No.4091/2019 dated 05.07.2022 by the Motor Vehicles Accident Claims Tribunal at

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<sup>2</sup> (2004) 3 SCC 297

<sup>3</sup> 2020 ACJ 2560

Bengaluru (SCCH-14), is hereby modified holding that the claimant is entitled for total compensation of **Rs.4,30,200/-** along with interest @ 6% p.a. from the date of petition till its realization.

- iii) The compensation amount along with accrued interest if any, shall be deposited by the respondent No.2 – Insurance Company, within eight weeks from the date of filing of the petition till realization;
- iv) Upon deposit, entire amount shall be released in favour of appellant on proper identification in terms of award.
- v) No order as to costs.

**SD/-**  
**(DR.K.MANMADHA RAO)**  
**JUDGE**

MH/-