



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCELLANEOUS FIRST APPEAL NO. 8351 OF 2016 (MV-I)

BETWEEN:

SMT. ALUMELU,
W/O SHRI ARMUGAM,
AGED ABOUT 45 YEARS,
#161, J C ROAD, LALBAGH ROAD,
BENGALURU-560 027.

...APPELLANT

(BY SRI Y K SHESHAGIRI RAO, ADVOCATE)

AND:

1. SHRI SAHIL AGARVAL,
#12, CHOWDAPPA ROAD,
IV FLOOR, SHANTHINAGAR,
BENGALURU-560 027.
(RC OWNER OF BULLET MOTOR-CYCLE
BEARING REGISTRATION NO.KA-05-JR-5879)

2. RELIANCE GENERAL INSURANCE CO. LTD.,
#28, V FLOOR, CENTENARY BUILDING,
M G ROAD, BENGALURU-560 001.
(INSURER OF BULLET MOTOR-CYCLE BEARING
REGISTRATION NO.KA-05-JR-5879)
POLICY NO.1405552312034524 VALID FROM
22-12-2015 TO 21-12-2016)

...RESPONDENTS

(BY SRI ASHOK N PATIL, ADVOCATE FOR R-2;
NOTICE TO R-1 IS DISPENSED WITH V/O DATED
10.11.2017)



THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 26.09.2016 PASSED IN MVC NO.1275/16 ON THE FILE OF THE 7TH ADDITIONAL JUDGE, 32ND ACMM & MACT, COURT OF SMALL CAUSES, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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 for the appellant and respondent No.2.

2. Being aggrieved by the judgment in MVC.No.1275/2016 dated 26.09.2016, the petitioner has approached this Court seeking enhancement of the compensation.

3. Learned counsel appearing for the appellant submits that on 15.02.2016 at about 07.30 a.m., when the petitioner was on the left side of Lalbagh Road, a two wheeler bearing No.KA-05-JR-5879 came in rash and negligent manner and hit against the petitioner, resulting



in accident, wherein the petitioner sustained displaced fracture of shaft of right femur and she was admitted to St.Martha's Hospital, Bengaluru. She was inpatient in the said hospital for 06 days and she was treated with nailing and close reduction with internal fixation. The jurisdictional Police had registered a case against the rider of the motorcycle and ultimately they have filed a charge sheet. It is contented that the petitioner claims to be a maid servant in apartments and was earning by tailoring work. It is contented that she was earning Rs.15,000/- per month and therefore, the petitioner had sought adequate compensation from the Tribunal. The said petition was opposed by the respondent No.2-Insurance Company contending that the compensation claimed is highly exorbitant, imaginary and untenable and the policy issued was subject to terms and conditions, which were violated by the rider of the motorcycle.

4. The Tribunal framed appropriate issues and the petitioner was examined as PW.1 and two witnesses were



examined as PWs.2 and 3 and Exs.P1 to 19 were marked in evidence. No evidence was adduced on behalf of respondent No.2.

5. After hearing the arguments, the Tribunal awarded compensation of Rs.2,03,251/- under following heads:

SL. NO.	PARTICULARS	AMOUNT (IN RS.)
1	Pain and suffering	25,000/-
2	Loss of income during laid up period	14,000/-
3	Medical bills	50,171/-
4	Loss of future earning	94,080/-
5	Loss of amenities, conveyance, food and nourishment, attendant charges etc.	10,000/-
6	Future medication	10,000/-
	TOTAL	2,03,251/-

6. Being aggrieved, the petitioner is before this Court seeking enhancement of compensation.

7. Learned counsel appearing for the appellant would submit that the notional income considered by the Tribunal is on the lower side and the compensation under



the other heads is also meager and as such, the quantum has to be reassessed by this Court.

8. *Per contra*, learned counsel for respondent No.2 submits that the compensation awarded by the Tribunal is just and adequate and there is no need for any indulgence by this Court.

9. A careful perusal of the records would reveal that the petitioner had sustained displaced fracture of shaft of right femur and she was taken to St.Martha's Hospital, where she underwent nailing with CRIF and was inpatient for 06 days. The PW.3 who assessed her disability has stated that the range of movement of the right knee and the hip joint has been restricted and therefore, there is a disability to the extent of 34.3% to the right lower limb and it translates to 17% of the whole body.

10. It is pertinent to note that the functional disability has to be assessed by the Tribunal by



considering the physical disability and the avocation of the injured. The Medical Officer who deposes about the physical disability cannot say about the functional disability, since he is unaware of the avocation of the injured. Therefore, it is the Court or the Tribunal which has to determine the functional disability of the petitioner. The proposition laid down in the case of **RAJ KUMAR Vs. AJAY KUMAR AND ANOTHER**¹ reiterates this aspect.

11. A perusal of the impugned judgment shows that nowhere in the impugned judgment the avocation of the petitioner is referred to. Without referring to the avocation of the petitioner, the Tribunal has assessed the disability at 8%. It is not known how the said 8% functional disability has been assessed by the Tribunal without referring to the avocation of the petitioner.

12. A perusal of the records would reveal that there is no documentary evidence to show the avocation of the

¹ (2011) 1 SCC 343



petitioner, but it is only the oral testimony of PW.1 which reveals that she was a maid servant and she was earning by tailoring also. By considering this aspect stated by PW.1, the fracture of the right femur would definitely affect her ability to earn her livelihood and therefore, this Court is of the view that such functional disability would be around 11%.

13. The Tribunal has considered the notional income at Rs.7,000/-. The guidelines issued by the KSLSA for the purpose of settlement of the disputes before the Lok-Adalat prescribe a notional income of Rs.9,500/- for the year 2016. In umpteen number of judgments, it has been held by this Court that the guidelines issued by the KSLSA are in general conformity with the wages fixed under the Minimum Wages Act and therefore, the notional income of the petitioner is considered at Rs.9,500/- per month. Therefore, 'loss of future income' is calculated as $\text{Rs.9,500/-} \times 12 \times 14 \times 11\% = \text{Rs.1,75,560/-}$.



14. As a consequence, by holding that the petitioner was unable to resume her work at least for a period of 03 months, the compensation under the head of 'loss of income during laid up period' is calculated as $\text{Rs.}9,500 \times 3 = \text{Rs.}28,500/-$.

15. The Tribunal has awarded a sum of Rs.25,000/- under the head of 'pain and suffering' and the same needs to be enhanced to Rs.40,000/-. The Tribunal has awarded a sum of Rs.10,000/- towards 'loss of amenities in life, food, attendant expenses, nourishment etc. It is pertinent to note that she was inpatient for about 06 days in the hospital and therefore, a sum of Rs.10,000/- has to be awarded towards the 'conveyance, nourishment etc.' Further, she is also entitled for compensation under the head of 'loss of amenities in life', which is assessed by this Court at Rs.35,000/-.

16. PW.3 has stated that there is a nailing which has been done and therefore, she needs future medical attention. Under these circumstances, it would be just and



proper to award a sum of Rs.25,000 under the head of 'future medical expenses', which would not carry any interest.

17. The compensation awarded under the head of 'medical bills' does not require any interference. Hence, the compensation awarded under the said head remains the same.

18. Thus, the petitioner is entitled for the modified compensation under different heads as below:

PARTICULARS	AMOUNT (IN RS.)
Pain and suffering	40,000/-
Loss of income during laid up period	28,500/-
Medical bills	50,171/-
Loss of future earning	1,75,560/-
Conveyance, nourishment etc.	10,000/-
Loss of amenities in life	35,000/-
Future medical expenses	25,000/-
TOTAL	3,64,231/-
Less awarded by Tribunal	2,03,251/-
Enhancement	1,60,980/-

19. Thus, the petitioner is entitled for enhanced compensation of Rs.1,60,980/- with interest and



therefore, the appeal deserves to be allowed in part.

Hence, the following:

ORDER

(i) The appeal is allowed in part.

(ii) The impugned judgment and award passed by the Tribunal is modified by awarding a sum of Rs.1,60,980/- in addition to what has been awarded by the Tribunal together with interest at 6% p.a. from the date of petition till its deposit, excluding the interest on Rs.25,000/-, which is awarded towards the 'future medical expenses'.

(iii) The respondent No.2/Insurance company is directed to deposit the entire compensation amount within a period of six weeks from the date of this order.

(iv) Rest of the order of the Tribunal stands unaltered.

Sd/-
(C M JOSHI)
JUDGE