



NC: 2026:KHC:50688
MFA No. 8743 of 2019

CNR: KAHC010481892019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.8743 OF 2019(MV-I)

BETWEEN:

MR. MS LOKESH
S/O MR.SHYAMAIAH,
AGED ABOUT 30 YEARS,
R/O KAREGODU POST AND VILLAGE,
HALE MYSORE HOBALI,
HOLENARASIPURA TALUK,
HASSAN DISTRICT - 573 210,

PRESENTLY R/AT
BOLLA BAJAL VILLAGE,
MANGALURU TALUK-575 001

...APPELLANT

(BY SRI KR LINGARAJU, ADVOCATE)

AND:

1. MR. THAJUDDIN
S/O MR.ADAM KUNHI,
AGED ABOUT 37 YARS,
R/O BAYABE HOUSE,
KEDILA POST,
BANTWALA TALUK-574 211.
2. RELIANCE GENERAL INSURANCE
COMPANY LTD.,
MAXIMUMS COMMERCIAL COMPLEX,
4TH FLOOR, LIGHT HOUSE HILL ROAD,
HAMPANKATTA,
MANGALURU - 575 001.

...RESPONDENTS

(BY SRI ASHOK N PATIL, ADVOCATE FOR R2;
V/C/O/DATED 06.03.2026, NOTICE TO R1 IS D/W)

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 25.04.2019 PASSED IN MVC NO.674/2017 ON THE FILE OF THE M.A.C.T., AND III ADDITIONAL SENIOR CIVIL JUDGE, ACJM, MANGALURU, DAKSHIN KANNADA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL IS COMING ON FOR *HEARING ON I.A.*, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 25.04.2019 passed by MACT & III Addl. Senior Civil Judge & ACJM, Mangaluru, Dakshina Kannada, in MVC no.674/2017, this appeal is filed.

2. Sri KR Lingaraju, learned counsel for appellant submitted that this appeal is by claimant for enhancement of compensation.

3. Brief facts leading to this appeal are that in morning of 04.10.2014, when claimant was riding motorcylce no.KA-13-Y-1336 near Valachil Maszid, driver of Tipper no.KA-19-AA-3587 drove it in rash and negligent manner and dashed against



CNR: KAHC010481892019

motorcylce from behind causing accident. In accident, claimant sustained grievous injuries and despite treatment, did not recover fully and sustained loss of earning capacity. Therefore, he filed claim petition against owner and insurer of Tipper Lorry.

4. Despite service of notice, owner did not appear and was placed *ex-parte*. Only insurer appeared and opposed claim petition. Based on pleadings, Tribunal framed following issues:

ISSUES:

- 1. Whether the petitioner proves that the accident occurred on 4.10.2014 at about 8.00 a.m at Valachil, Adyar Village, Mangaluru taluk was due to rash and negligent driving of the driver of the vehicle bearing No. KA-19-AA-3587 and thereby sustained injuries?*
- 2. Whether the respondent No.2 proves that the driver of the vehicle bearing Reg.No.KA-19-AA-3587 was not holding valid and effective driving licence at the time of the accident?*
- 3. Whether the petitioner is entitled for the compensation. If so, at what rate from whom?*
- 4. What order or award?*

5. Claimant examined himself as PW.1 and got marked Exhibits P1 to P12. Insurer examined owner of Lorry as RW.1 and got marked Exhibits R1 and R2.



CNR: KAHC010481892019

6. On consideration, Tribunal answered issue no.1 in affirmative, issue no.2 in negative, issue no.3 partly in affirmative and issue no.4 in favour of claimant by awarding Rs.30,000/- as global compensation. Dissatisfied with same, claimant was in appeal.

7. It was submitted that claimant had sustained various injuries including fracture of frontal bone. Though he had produced some medical bills, which would indicate period of admission and discharge, Tribunal erred in awarding inadequate compensation. It was submitted, in case of personal injury, Tribunal was required to pass award assessing compensation under separate heads such as pain and suffering, future loss of income, loss of amenities, loss of income during laid-up period, incidental expenses etc. It was submitted, as on date of accident, claimant was 28 years of age, working as Barber and earning Rs.15,000/- per month. Tribunal erred in not assessing award under separate heads which called for interference. On above grounds, sought for allowing appeal.



CNR: KAHC010481892019

8. Sri Ashok N Patil, learned counsel for respondent no.2 - insurer would oppose appeal and submitted that considering injuries award on overall consideration was justified.

9. Heard learned counsel and perused impugned judgment and award.

10. From above and since claimant is in appeal, only point that arise for consideration is,

"Whether claimant is entitled for enhancement of compensation?"

11. From above, occurrence of accident involving insured vehicle, claimant sustaining injuries and being entitled for compensation are not in dispute. Claimant is seeking for enhancement of compensation. Tribunal has passed award granting global compensation. It is settled law that in case of personal injury claim, Tribunal has to assess compensation under each head separately and would not be justified in awarding global compensation.



CNR: KAHC010481892019

12. In instant case, claimant stated that he was aged 28 years, working as Barber and earning Rs.15,000/- per month. However, there are no records produced to substantiate occupation and income. In absence, income has to be assessed notionally. Notional income for year 2014 is Rs.8,500/- per month. As per Ex.P6 - wound certificate as well as Ex.P9 - discharge summary and Ex.P10 - medical certificate, claimant sustained fracture of frontal bone apart from lacerated wounds. Fracture of skull has to be considered as grievous fracture and it would be appropriate to award of **Rs.40,000/-** towards pain and suffering. Claimant has produced medical bills for Rs.15,699/-. Award does not indicate insurer disputing same. Therefore, **Rs.16,000/-** is awarded towards medical expenses. Though claimant is stated to have sustained permanent physical disability and loss of earning capacity, he has not examined Doctor or produced disability certificate. In fact, though claimant sustained head injury he has deposed in person. Therefore, possibility of permanent physical disability or loss of earning capacity cannot be held established. However, due to fracture, claimant would have stayed away



CNR: KAHC010481892019

from employment and would have lost earning capacity. Normally fractures heal in about 3 months. Taking said period as lay-off, claimant would be held entitled for **Rs.25,500/-**. Since disability is not established, no compensation can be awarded towards loss of amenities. Records would reveal that claimant was in-patient for about 4 days. Hence, it is found appropriate to award sum of Rs.8,500/- towards food, nourishment and other incidental expenses. Thus, claimant is entitled for total compensation of **Rs.90,000/-** (Rs.40,000 + Rs.16,000 + Rs.25,500 + Rs.8,500). Hence, point for consideration is answered in partly affirmative. Consequently, following:

ORDER

- (i) Appeal is ***allowed in part;***
- (ii) Judgment and award dated 25.04.2019 passed by MACT & III Addl. Senior Civil Judge & ACJM, Mangaluru, Dakshina Kannada, in MVC no.674/2017 is modified by re-assessing compensation of **Rs.90,000/-** as against Rs.30,000/- awarded by Tribunal and same shall carry interest at rate of 6% from date of petition till deposit.



NC: 2026:KHC:50688
MFA No. 8743 of 2019

CNR: KAHC010481892019

- (iii) Insurer is directed to deposit compensation within six weeks;
- (iv) On deposit, entire compensation is ordered to be released in favour of claimant.

Sd/-
(RAVI V HOSMANI)
JUDGE

AV
List No.: 1 SI No.: 8