



CNR: KAHC010482522025

NC: 2026:KHC:42474-DB
MFA No. 5445 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 11TH DAY OF AUGUST, 2026
PRESENT
THE HON'BLE MR. JUSTICE S.G.PANDIT
AND
THE HON'BLE DR. JUSTICE K.MANMADHA RAO
M.F.A. NO. 5445 OF 2025 (MV-I)

BETWEEN:

SYED SAMIULLA,
S/O SYED BASHA,
AGED ABOUT 58 YEARS,
OCC: HAMALI AND COOLIE WORK,
R/AT JOGINAGADDE,
BALASAGODU, BRAHMANA MANCHALE,
SAGARA TALUK
SHIVAMOGGA DISTRICT-577401.

...APPELLANT

(BY SRI. ASHWATH C.M., ADV.)

AND:

Digitally signed by
NANJUNDACHARI
Location: High
Court of Karnataka

1. VEERABHADRAPPA
S/O NAGARAJAPPA,
AGED ABOUT 42 YEARS,
R/AT CHIKKABASURU VILLAGE,
BYADAGI, HAVERI DISTRICT
(DRIVER OF GAJANANA BUS BEARING
REGISTRATION NO KA-15-8640).
2. SHREE GAJANANA MOTOR TRANSPORT CO. LTD.
B.H. ROAD, SAGAR 577401
REP. BY ITS EXECUTIVE DIRECTOR
(OWNER OF GAJANANA BUS BEARING
REGISTRATION NO KA-15-8640).
3. DIVISIONAL MANAGER
THE ORIENTAL INSURANCE CO. LTD.



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'VISHNU PRAKASH' 2ND AND 3RD FLOOR,
COURT ROAD, UDUPI
POLICY NO. 422208/31/2022/5532
(VALID FROM 17.10.2021 TO 16.10.2022)

...RESPONDENTS

(BY SMT. MANJULA N TEJASWI, ADV. FOR R3
NOTICE TO R2 IS SERVED AND UNREPRESENTED
NOTICE TO R1 IS D/W)

THIS APPEAL IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DATED 16.12.2024 PASSED IN MVC
NO.710/2023 ON THE FILE OF THE PRL. SENIOR CIVIL JUDGE,
JMFC, MACT, SAGAR, ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE DR. JUSTICE K.MANMADHA RAO

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

The claimant, not being satisfied with the quantum of
compensation as well as not being satisfied with the
assessment of whole body disability under judgment and
award dated 16.12.2024 in MVC No.710/2023 on the file
of the Principal Senior Civil Judge, JMFC and Motor
Accident Claims Tribunal, Sagar (for short "Tribunal") is
before this Court praying for enhancement of
compensation.



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2. The brief facts of the case are that,

The appellant/claimant filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation for the accidental injuries suffered in a road traffic accident that occurred on 10.08.2022 involving Mahindra Bolero Pick-up Vehicle bearing Registration No.KA-15/A-4572 and a private bus bearing Registration No.KA-15/8640. It is stated that the claimant was a driver and earning a sum of Rs.25,000/- p.m. and due to the accidental injuries sustained he has suffered 100% disability and not in a position to do the same work which he was doing prior to the accident.

3. Respondent No.2-Insurance Company appeared and filed its written statement denying the claim petition averments. Further, in the objection statement it is stated that it is for the owner of the offending vehicle to prove that the driver of the offending vehicle had valid and effective Driving License as on the date of accident.



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Further, it is stated that there is violation of terms and conditions of the policy, as such, the insurer is not liable to pay compensation to the claimant.

4. The claimant in support of his case examined himself as P.W.1 and examined P.W.2/Doctor apart from marking the documents Ex.P1 to Ex.P73, however, no evidence was lead on behalf of the respondent-Insurance Company.

5. The Tribunal, on scrutiny of material on record awarded total compensation of Rs.15,78,760/- on the following heads:

Sl.No.	Nature of Head	Amount
01	Loss of Income/Earning capacity	Rs. 9,68,760.00
02	Loss of amenities	Rs. 50,000.00
03	Loss of expectation of life due to permanent disability	Rs. 50,000.00
04	Pain and suffering	Rs. 1,00,000.00
05	Medicines & medical treatment	Rs. 2,32,000.00
06	Conveyance charges	Rs. 20,000.00
07	Special diet	Rs. 20,000.00
08	Attendant charges	Rs. 10,000.00
09	Future treatment	Rs. 50,000.00
10	Loss of income during laid down period	Rs. 78,000.00
	TOTAL	Rs.15,78,760.00



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While awarding the above compensation, the Tribunal assessed the income of the appellant/claimant at Rs.13,000/- p.m., notionally and assessed the whole body disability at 60% and applied multiplier of 9 taking the age of the claimant at 56 years. Aggrieved by the quantum of compensation as well as assessment of whole body disability at 60%, the claimant is in appeal before this Court.

6. Heard learned counsel Sri.Ashwath C.M. for appellant/claimant and Smt.Manjula N Tejaswi, learned counsel for respondent No.3/Insurance Company. Perused the entire appeal papers as well as the original records of the Tribunal.

7. Learned counsel for the claimant would submit that the claimant is working as driver and was earning more than Rs.25,000/- p.m. Learned counsel would invite attention of this Court to Ex.P73/Driving License of the claimant and submits that, when the claimant has placed



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on record Ex.P73/Driving License, the Tribunal ought to have assessed the income of the claimant as driver, a skilled worker and not Rs.13,000/- p.m. as assessed by the Tribunal. Further, learned counsel would submit that the compensation awarded on other heads are on the lower side when compared to the injuries sustained and treatment taken by the claimant/appellant as inpatient. Further, learned counsel would submit that the claimant/appellant has suffered spinal cord injury and P.W.2/doctor has deposed that the claimant/appellant has sustained 100% whole body disability, as such, the Tribunal ought to have assessed functional disability at 100%. Learned counsel would refer to Ex.P72/Disability Certificate which also states that the appellant has suffered permanent disability up to 100% in relation to Post Cervical Spinal Cord Injury/residual Quadriplegia (Ex.P72). Further, learned counsel for the appellant would submit that disability shall be assessed with relation to the avocation of the injured. As such, in the instant case,



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since the deceased was working as driver as well as coolie, he would not be in a position to do the same work which he was carrying on prior to the accident. Therefore, functional disability shall have to be assessed at 100%.

8. On the other hand, refuting the contention of the learned counsel for the appellant/claimant, learned counsel for the respondent-Insurance Company would submit that the whole body disability assessed by the Tribunal at 60% is proper and correct. Learned counsel referring to cross-examination of P.W.2-Doctor would submit that the doctor has deposed that the condition of the appellant/claimant is improved and he is in a position to stand and sit on his own. Learned counsel would further submit that when the doctor has deposed that the claimant/appellant is in a position to stand and sit, it cannot be said that the claimant has suffered 100% whole body disability.



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9. Learned counsel for the respondent-Insurance Company would invite attention of this Court to evidence of P.W.1 i.e., the claimant himself to say that the evidence would clearly indicate that the appellant/claimant was working as coolie and Hamali. Further, it is stated that in the examination-in-chief, the claimant/appellant has not stated that he was working as driver. In the said circumstance, learned counsel would submit that the assessment of monthly income of Rs.13,000/- p.m. of the claimant/appellant is proper and correct. Further, learned counsel for the respondent-Insurance Company would submit that since the appellant/claimant was inpatient only for 4 days, the compensation awarded on the other heads is proper and correct which needs no interference. Thus, she would pray for dismissal of the appeal.

10. Having heard the learned counsel for the parties and on perusal of the entire appeal papers, including Tribunal



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records, the following points would arise for our consideration:

(i) Whether the Tribunal is justified in assessing the whole body disability of the claimant at 60% or whether the same needs to be enhanced?

(ii) Whether the claimant would be entitled for re-assessment of monthly income and whether he would be entitled for enhanced compensation.?

11. Answer to the above points would be in the affirmative for the following reasons:

The accident occurred on 10.08.2022 involving Mahindra Bolero Pick-up vehicle bearing Registration No.KA-15/A-4572 and a private bus bearing Registration No.KA-15/8640 and the accidental injuries sustained by the claimant is not in dispute in this appeal. The claimant has suffered Cervical Spinal Cord injury. Ex.P2-wound certificate as well as Ex.P72-disability certificate along with Ex.P71-MRI Whole Spine Screening would prove that the claimant has suffered Cervical Spinal Cord injury. P.W.2/Doctor in his evidence has clearly deposed that due



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to spinal injuries suffered by the claimant/appellant and based on the medical records and rehabilitation report was of the opinion that the claimant/appellant has suffered 100% whole body disability. In the cross-examination of P.W.2, the doctor has stated that the claimant could stand and sit on his own.

12. That P.W.1 in his examination-in-chief has stated that he was working as Hamali in Mahindra Bolero Pick-up van bearing No.KA-15/A-4572. He further stated that he was doing coolie as well as Hamali work and was earning a sum of Rs.25,000/- p.m. However, in the cross-examination, he has deposed that he was working as coolie as well as driver. No doubt, the claimant has placed on record the Driving License of transport vehicle at Ex.P73. It is not the case of the claimant/appellant that he was working as driver throughout, but in his examination-in-chief, he has clearly stated that he was working as coolie as well as Hamali. The claimant has not



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placed on record any material to establish his exact income, mere statement that he was earning a sum of Rs.25,000/- p.m. would not be sufficient to determine the income of the claimant/appellant. In the absence of any material to establish the income, the Court or Tribunal would assess the income notionally based on the income chart prepared by the Karnataka State Legal Services Authority.

13. The accident is of the year 2022 and the notional income in the year 2022 would be Rs.15,500/- p.m. Therefore, the income of the appellant/claimant is assessed at Rs.15,500/- p.m. as against Rs.13,000/- assessed by the Tribunal.

14. The medical records i.e., Ex.P72-disability certificate, evidence of P.W.2/Doctor would indicate that the claimant/appellant has suffered Cervical Spinal Cord injury. The functional disability shall be assessed with reference to the avocation of the claimant-injured. In the



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instant case, the claimant-injured states that he was working as coolie as well as doing Hamali work though he possessed Driving License. The injury sustained i.e., Cervical Spinal Cord injury and taking note of the deposition of P.W.2/doctor that the claimant could only stand and sit on his own, the functional disability would be more than 60% as assessed by the Tribunal. Taking note of the avocation of the claimant/injured, we are of the opinion that the whole body disability requires to be enhanced from 60% to 80%. Thus, we re-assess the whole body disability as well as functional disability at 80%.

15. The Tribunal adopted multiplier of 9, taking the age of the claimant/appellant at 56 years. The claimant has placed on record Ex.P73/Driving License which indicates the date of birth of the appellant as 12.05.1968 whereas, the Aadhaar Card-Ex.P6 indicates the date of birth of the appellant as 01.01.1967. If the age of the claimant is



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calculated taking note of the date of birth as mentioned in Ex.P6-Aadhaar Card as on 01.01.1967, age of the claimant as on the date of accident would be 55 years 7 months. However, he has not attained the age of 56 years. Therefore, the appropriate multiplier would be "11" as prescribed for the age between 51 to 55 years. The Tribunal committed an error in adopting multiplier of 9 instead of 11. Further, the claimant would be entitled for adding 10% of the assessed income towards future prospects, since we have arrived at conclusion that the claimant suffered 80% functional disability. Thus, the claimant would be entitled for the loss of income/earning capacity as follows:

$$15,500+10\% = 17,050 \times 12 \times 11 \times 80\% = \mathbf{18,00,480}$$

16. Since the claimant has suffered 80% functional and whole body disability, the claimant would be entitled for higher compensation on the head of loss of amenities. Hence, the same is enhanced to **Rs.1,00,000/-** from



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Rs.50,000/- as awarded by the Tribunal. According to us, the compensation awarded on the other heads is just and proper, which needs no interference. Thus, the claimant would be entitled for the following modified compensation:

Sl.No.	Nature of Head	Amount
01	Loss of Income/Earning capacity	Rs.18,00,480.00
02	Loss of amenities	Rs. 1,00,000.00
03	Loss of expectation of life due to permanent disability	Rs. 50,000.00
04	Pain and suffering	Rs. 1,00,000.00
05	Medicines & medical treatment	Rs. 2,32,000.00
06	Conveyance charges	Rs. 20,000.00
07	Special diet	Rs. 20,000.00
08	Attendant charges	Rs. 10,000.00
09	Future treatment	Rs. 50,000.00
10	Loss of income during laid down period	Rs. 78,000.00
	TOTAL	Rs.24,60,480.00

The claimant would be entitled to total compensation of Rs.24,60,480/- as against Rs.15,78,760/- awarded by the Tribunal and thereby entitled to enhanced compensation of Rs.8,81,720/-.



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17. Accordingly, the appeal is ***allowed in part***. The impugned judgment and award dated 16.12.2024 in MVC No.710/2023 is modified to the above extent.

The deposit and disbursement and compensation is as ordered by the Tribunal.

**Sd/-
(S.G.PANDIT)
JUDGE**

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

MPK
CT:bms
List No.: 1 Sl No.: 19