



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. 8544 OF 2016 (MV-I)

BETWEEN:

SRI SUDARSHAN,
S/O DEVARAJU,
AGED ABOUT 26 YEARS,
R/O ADAGURU VILLAGE,
KASABA HOBLI,
CHANNARAYAPATNA TALUK,
HASSAN DISTRICT-573 201.

...APPELLANT

(BY SRI VEDHU KUMAR Y S, ADVOCATE)

AND:

1. SRI KIRAN,
S/O RAMEGOWDA,
AGED ABOUT 33 YEARS,
HARIHARAPURA VILLAGE,
HALEKOTE HOBLI,
HOLENARASIPURA TALUK,
HASSAN DISTRICT-573 201.

2. MANAGER,
NEW INDIA INSURANCE CO. LTD.,
CHANDANA COMPLEX,
HARSHA MAHAL ROAD,
HASSAN-573 201.

...RESPONDENTS

(BY SRI ASHOK N PATIL, ADVOCATE FOR R2;
NOTICE TO R-1 IS DISPENSED WITH V/O DATED
28.11.2017)



THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 19.11.2014 PASSED IN MVC NO.25/2012 ON THE FILE OF THE SENIOR CIVIL JUDGE AND M.A.C.T., CHANNARAYAPATNA, 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

1. Heard learned counsel appearing for the respondent. None appears for the appellant.

2. Though there is no appearance on behalf of the appellant, the matter is taken up for final disposal keeping in view the difficulties of the appellant and in achieving the objects of the provisions of the Motor Vehicles Act.

3. This appeal is filed by the petitioner in MVC No. 25/2012, assailing the Judgment and Award dated 19.11.2014 by Senior Civil Judge and MACT Channarayapatna.



4. The factual matrix of the case is that on 19.08.2011, at about 09.30 pm while the petitioner was walking on the left side of the road, a motorcycle bearing No. KA.13.X.1917 came in a high speed and rash and negligent manner and dashed against him resulting in grievous injuries to him. He was shifted to Government Hospital, Channarayapatna and then to Mangala Hospital, Hassan and underwent surgeries and he was inpatient for about 1 month. The petitioner contended that the jurisdictional police registered a case in Crime No. 282/2011 and the rider of the motorcycle was charge sheeted. The petitioner claiming compensation for the injuries suffered by him, filed a petition before the Tribunal.

5. On issuance of notice, respondent No. 2- Insurance Company appeared and filed written statement denying the petition averments and contending that there was no such rash and negligent driving by the rider of the motorcycle and the terms and conditions of the policy



were violated and as such, the liability upon the respondent No. 2 may be absolved.

6. The Tribunal framed appropriate issues. The petitioner was examined as PW1 and Exhibits P1 to P12 were marked in evidence. The Doctor who treated the petitioner was examined as PW2. The official of respondent No. 2 was examined as RW1 and Exhibits R1 to R4 were marked.

7. After hearing the arguments, the Tribunal has awarded compensation under different heads as below:

1.	Pain & Suffering	Rs. 25,000/-
2.	Medical, Conveyance Nourishment Expenses	Rs.1,30,000/-
3.	Loss of Earnings during the period of treatment	Rs. 18,000/-
4.	Disability	Rs. 30,000/-
5.	Future Medical Expenses	Rs. 10,000/-
6.	Loss of amenities and enjoyment of life	Rs. 10,000/-
	Total	Rs.2,23,000/-

8. As contented in the appeal memo, the petitioner is disputing the quantum of the compensation awarded by the Tribunal. It is contended that appellant



had spent a sum of Rs.2,18,786/- towards the medical expenses. But the Tribunal has restricted the award only to a sum of Rs.1,30,000/-. The compensation awarded under the remaining heads is also on the lower side and the notional income of the petitioner would have been taken on the higher side. It is contended that PW2 had assessed the disability at 28%. But the Tribunal has not taken any disability which would impair his earning capacity.

9. *Per contra*, the learned counsel for respondent No. 2 would submit that the compensation awarded by the Tribunal is proper and correct and there is no need for any enhancement. He submits that the petitioner had not suffered any fractures and therefore, there could not be any disability to him which would impair his earning capacity.

10. A careful perusal of the records would reveal that as per the medical records, especially, the discharge



summary of Mangala Hospital, Hassan, it may be seen that the petitioner had sustained deep laceration on the right hip with neurovascular injury. The wound certificate which is at Exhibit P8 also states that apart from the deep laceration on the right hip with neurovascular injury, there were abrasion over the forehead, right elbow and right buttocks. It was noticed that due to the neurovascular injury there is no distal pulse and movement of the limb. The contents of the wound certificate is reiterated in the discharge summary. It was treated by iso-femoral bypass surgery under General Anastasia and he was inpatient from 20.08.2011 to 30.08.2011 (10 days).

11. The Doctor, who had treated the petitioner has been examined as PW2. In his testimony, he states that the petitioner has 28% disability and there is difficulty for the petitioner for squatting, sitting cross-legged, kneeling, climbing etc. It is worth to note that a neurovascular injury was treated appropriately by the medical officer. Obviously, the difficulty in climbing etc., cannot be a



reason which occurs on account of such vascular injuries. There is no specific mention as to which nerve had been damaged. It is difficult to accept the fact that due to neurovascular injury on the hip, there is a disability of 28%. Therefore, rightly the Tribunal has held that there is no need for compensation under the head of loss of future income on account of disability. However, it grants a global sum of Rs.30,000/- under the said head.

12. In the considered view of this Court, there cannot be any functional disability on account of the neurovascular injury over the hip of the petitioner. Under these circumstances, the compensation has to be reassessed under the remaining heads.

13. Considering the nature of the injuries suffered by the petitioner, it would be just and proper to enhance the compensation under the head of 'pain and suffering' to Rs.40,000/-. The Tribunal has awarded a sum of Rs.1,30,000/- under the medical expenses though the



total amount under the bills produced would be Rs.2,18,786/-. On a careful appraisal of the medical bills produced, it appears that there are two doubtful bills which alone amount to Rs.67,000/- and Rs.12,000/-. The remaining bills are for purchasing medicine which cannot be disputed. These two bills amounting to Rs.67,000/- and Rs.12,000/- do not bear any seal or on any letterhead of any hospital. Therefore, by excluding these bills, the total admissible medical expenses comes to Rs.1,38,786/- and the same is rounded to Rs.1,40,000/-.

14. The Tribunal has considered the notional income at Rs.6,000/- and awarded a sum of Rs.18,000/- towards the loss of earnings during the laidup period. Noting that the guidelines prescribed by the KSLSA for settlement of disputes before Lok Aadalat are in general conformity with the Minimum Wages Act and the guidelines prescribe Rs.6,500/- as the notional income for the year 2011, the loss of earnings during the laid up period for 4 months is calculated at Rs.26,000/-.



15. The petitioner was inpatient for about 10 days and therefore, a sum of Rs.15,000/- is awarded to him under the head of food, conveyance, attendant charges and nourishment.

16. The petitioner is not entitled for any compensation under the head of loss of future earnings on account of disability and therefore, substantial amount has to be awarded under the head of loss of amenities in life. Hence, the petitioner is entitled for a sum of Rs.50,000/- under the head of 'loss of amenities in life'. The Tribunal has also awarded a sum of Rs.10,000/- under the head of 'future medical expenses' which need not be disturbed. Hence, the petitioner is entitled for a total sum of Rs.2,81,000/- under the following heads:

1.	Pain & Suffering	Rs. 40,000/-
2.	Medical Expenses	Rs.1,40,000/-
3.	Loss of Earnings during the period of treatment	Rs. 26,000/-
4.	Conveyance, nourishing food and attendant charges	Rs. 15,000/-



5.	Future Medical Expenses	Rs. 10,000/-
6.	Loss of amenities and enjoyment of life	Rs. 50,000/-
	Total	Rs.2,81,000/-
	Less: Amount awarded by Tribunal	<u>Rs.2,23,000/-</u>
	Enhancement	<u>Rs. 58,000/-</u>

Thus, the petitioner is entitled for an additional sum of Rs.58,000/- together with interest at 6% p.a.

17. For the aforesaid reasons, 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. The petitioner is entitled for a sum of Rs.58,000/- in addition to what has been awarded by the Tribunal along with interest at the rate of 6% p.a. from the date of petition till its deposit.



(iii) The rest of the terms and conditions ordered by the Tribunal remain unaltered.

(iv) Respondent No.2- Insurance Company is directed to deposit the compensation amount within four weeks from the date of the receipt of the copy of this judgment.

Sd/-
(C M JOSHI)
JUDGE

tsn*
List No.: 1 Sl No.: 37