



CNR: KAHC010505192025

NC: 2026:KHC:42635
MFA No. 5707 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 5707 OF 2025 (MV-I)

BETWEEN:

S.A SAFI AHAMED
S/O S.A. AHAMED JOHN,
AGED ABOUT 51 YEARS,
R/AT NO.1/347, G.P. MALLAPPAPURAM,
KOLLEGALA TOWN AND TALUK,
CHAMARAJANAGARA DISTRICT - 571 441.

...APPELLANT

(BY SRI. SREENIVASAN M.Y., ADVOCATE)

AND:

1. VASANTHAKUMAR J.
S/O JAYARAJU,
MAJOR,
R/AT NO.14, AMBEDKAR STREET,
MANGALA VILLAGE, BOODABALU,
CHAMARAJANAGARA - 571 441.
2. THE BRANCH MANAGER,
CHOLAMANDALAM MS-GENERAL INS. CO. LTD.,
DOOR NO.271, ASHRAYA BUILDING,
LAXMIVILAS ROAD, DEVARAJ MOHALLA,
MYSORE - 570 001.

...RESPONDENTS

(BY SRI. B. PRADEEP, ADVOCATE FOR R2;
VIDE ORDER DATED 04.08.2025, NOTICE TO R1
DISPENSED WITH)

Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI

Location: HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:42635
MFA No. 5707 of 2025

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 23.01.2025 PASSED IN MVC NO.137/2021 ON THE FILE OF THE SENIOR CIVIL JUDGE AND ADDITIONAL MACT, KOLLEGALA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed by the claimant seeking enhancement of compensation awarded in the Judgment and Award dated 23.01.2025 passed in MVC No.137/2021 by Senior Civil Judge and Additional MACT, Kollegala.

2. The appellant/claimant made a claim petition seeking for award of compensation for the injury sustained by him in a road traffic accident occurred on 15.04.2021 contending that the accident occurred due to rash and negligent driving by the rider of motorcycle bearing registration No.KA-10-EC-0184.



CNR: KAHC010505192025

NC: 2026:KHC:42635
MFA No. 5707 of 2025

3. The Tribunal recorded the evidence adduced by the parties and upon appreciating the evidence on record, assessed the compensation and awarded the compensation under various heads as under:

Sl. No.	Particulars	Amount
1.	Towards Pain and sufferings	Rs. 50,000/-
2.	Towards Medical expenses	Rs. 10,66,193/-
3.	Towards diet, food, nourishment, attendant, conveyance charges and other expenses	Rs. 30,000/-
4.	Towards loss of future earning capacity on account of permanent physical disability	Rs. 16,38,000/-
5.	Loss of amenities of life and discomfort	Rs. 50,000/-
6.	Loss of income during the laid up period	Rs. 90,000/-
7.	Future medical expenses	Rs. 1,00,000/-
	Total	Rs. 30,24,193/-

4. The Tribunal has also awarded the interest at the rate of 6% per annum from the date of petition till realisation and directed respondent No.2/insurer to deposit the compensation awarded with interest. The claimant has



filed the present appeal seeking enhancement of compensation.

5. Heard the learned counsel for appellant and learned counsel for respondent No.2/insurer.

6. Learned counsel for the appellant would contend that, the claimant was aged forty seven (47) years as on the date of accident and he was a watch repairer. In the accident, the claimant has sustained severe traumatic brain injury with communitied open depressed bi-frontal and ACF base fractures. The fracture Midface-Lefort II & III level fracture with displacement, Nasoethemoidal complex with displacement. The claimant has sustained head injury has lost his vision and hearing and C.W.1 - Doctor based on Ex.C8 - Psychological disability and Ex.P15 has stated that the claimant has sustained 75% disability to the whole body. Since the claimant has lost 95% of vision of both eyes, he cannot do his avocation of watch repairing and therefore, the



CNR: KAHC010505192025

disability is to be taken at 100%. On that point, he placed reliance on the decision of Hon'ble Apex Court in the case of ***M. PARAMESH vs. VRL LOGISTICS LTD. AND ANOTHER*** reported in ***2026 INSC 655***.

7. He further submits that, the claimant has to undergo surgery of titanium mesh cranioplasty and in Ex.C10 he has given quotation for the said surgery at Rs.3,00,000/- and the Tribunal has awarded only Rs.1,00,000/- towards future medical expenses. Since, the disability is more, the future prospects at 25% is to be taken into consideration. He also submits that, the compensation awarded towards pain and sufferings and loss of amenities are on lower side. With these, he prayed to allow the appeal.

8. Learned counsel for respondent No.2/insurer would contend that, C.W.1 - Doctor has stated that the claimant has sustained 75% disability to the whole body and considering the same, the Tribunal has rightly taken



CNR: KAHC010505192025

the disability at 70% and awarded loss of future income. The compensation awarded on all other heads is just and proper and there are no grounds for enhancement. With these, he prayed for dismissal of the appeal.

9. Having heard the learned counsel for appellant and learned counsel for respondent No.2/insurer, the Court has perused the impugned Judgment, Award and Trial Court records.

10. The accident occurred on 15.04.2021 and as on the date of accident, the claimant was aged forty seven (47) years. The claimant has sustained severe traumatic brain injury with communitied open depressed bi-frontal and ACF base fractures. The fracture Midface-Lefort II & III level fracture with displacement, Nasoethemoidal complex with displacement. C.W.1 - Doctor has assessed the disability of the claimant at 75% to the whole body. Ex.P14 is a letter issued by Manipal Hospitals wherein it is stated that there is a profound hearing loss of both ears.



CNR: KAHC010505192025

C.W.1 - Doctor has stated that there is a loss of vision to both eyes to the extent of 98%. As the claimant avocation is watch repairer, with the loss of vision to the extent of 98%, he cannot continue his avocation. Therefore, the functional disability is to be taken at 100%. The Hon'ble Apex Court in the case of **M. Paramesh** *supra* has observed as under:

"22. From the above observations in Raj Kumar (supra), it becomes crystal clear that though the physical disability may be assessed at a particular percentage, the functional disability affecting earning capacity may, depending upon the nature of avocation carried on by the injured, be assessed at a higher percentage including 100%. The assessment of compensation in cases of permanent disability cannot be undertaken by mechanically applying the percentage of physical disability as the percentage of economic loss.

.....

26. *Having regard to the nature of avocation carried on by the appellant, the extent of injuries*



CNR: KAHC010505192025

suffered by him and the principles laid down by this Court in Raj Kumar (supra), we are of the considered opinion that the functional disability suffered by the appellant is required to be assessed at 100% and not at 70% as assessed by the Tribunal and affirmed by the High Court. Consequently, the loss of earning capacity suffered by the appellant deserves to be computed by treating the functional disability at 100%. Taking the monthly income of the appellant at Rs. 12,000/- with addition of 40% towards future prospects and applying the multiplier of '17' as adopted by the Courts below, the compensation payable towards loss of earning capacity is recalculated accordingly."

11. Considering the above aspects, the functional disability is to be taken at 100%. The Tribunal has rightly taken the notional income at Rs.15,000/- and applied multiplier '13'. Since the disability is higher, the future prospects at 25% are to taken into consideration. In view of same, loss of future income is calculated as under:



CNR: KAHC010505192025

$$\begin{aligned} &\text{Rs.15,000/-} + 25\% (\text{Rs.3,750/-}) = \text{Rs.18,750/-} \times 12 \\ &\times 13 \times 100\% = \text{Rs.29,25,000/-} \end{aligned}$$

12. Considering the injury sustained by the claimant noted *supra*, the compensation awarded towards pain and sufferings in a sum of Rs.50,000/- requires to be enhanced to Rs.1,00,000/- and loss of amenities in a sum of Rs.50,000/- requires to be enhanced to Rs.60,000/-. The claimant has been admitted in hospital for thirty (30) days, the Tribunal has rightly awarded compensation towards food, nourishment, attendant and conveyance charges in a sum of Rs.30,000/-.

13. In view of the disability taken at 100%, the claimant is not entitled to award separately towards loss of income during laid up period.

14. C.W.1 - Doctor has stated that the claimant has to undergo surgery of titanium mesh cranioplasty and the estimated cost at Rs.3,00,000/-. Considering the said



CNR: KAHC010505192025

NC: 2026:KHC:42635
MFA No. 5707 of 2025

aspect, the Tribunal has rightly awarded future medical expenses in a sum of Rs.1,00,000/-.

15. Since the claimant has lost his eye vision to both eyes to the extent of 98% and also the hearing of both ears, the wife of the claimant has to take care of the claimant throughout his life and therefore, the claimant is entitled to a sum of Rs.1,00,000/- towards the same.

16. Considering all the above aspects, the claimant is entitled to total compensation under various heads as under:

Sl. No.	Compensation Heads	Amount
1.	Loss of future income	Rs. 29,25,000/-
2.	Pain and sufferings	Rs. 1,00,000/-
3.	Medical expenses	Rs. 10,66,193/-
4.	Food, nourishment, attendant and conveyance charges	Rs. 30,000/-
5.	Loss of amenities	Rs. 60,000/-
6.	Future medical expenses	Rs. 1,00,000/-
7.	Attendant charges throughout life	Rs. 1,00,000/-
	Total	Rs. 43,81,193/-



CNR: KAHC010505192025

17. The claimant is entitled to total compensation of Rs.43,81,193/- as against Rs.30,24,193/- awarded by the Tribunal with interest.

18. Consequently, the claimant is entitled to enhanced compensation of Rs.13,57,000/- (Rs.43,81,193/- - Rs.30,24,193/-) with interest at the rate of 6% per annum from the date of petition till realisation.

19. Respondent No.2/insurer is liable to pay enhanced compensation amount with interest.

20. In view of the above, the following:

ORDER

- i) *Miscellaneous First Appeal is **allowed-in-part.***
- ii) *The appellant/claimant is entitled to enhanced compensation of Rs.13,57,000/- with interest at the rate of 6% per annum from the date of petition till realisation.*
- iii) *Respondent No.2/insurer shall deposit the enhanced compensation amount with*



NC: 2026:KHC:42635
MFA No. 5707 of 2025

CNR: KAHC010505192025

*interest before the Tribunal within a period
of six weeks from this day.*

*iv) The appellant/claimant is entitled to entire
enhanced compensation with interest.*

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

KLV
List No.: 1 Sl No.: 19