



CNR: KAHC010516452026

NC: 2026:KHC:46657  
MFA No. 5624 of 2026

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 28<sup>TH</sup> DAY OF AUGUST, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR**

**MISCELLANEOUS FIRST APPEAL NO. 5624 OF 2026**  
**(MV-I)**

**BETWEEN:**

MR. GURUPRASAD DEVADIGA  
C/O. NAGAPPA DEVADIGA,  
AGED 39 YEARS,  
R/AT 2-126(8), KANGURI,  
ULLEPADY,  
ELINJE POST,  
MANGALURU TALUK,  
D.K. - 574 141.

...APPELLANT

(BY SMT. POOJA PARVATHI, ADVOCATE FOR  
SRI. G. RAVISHANKAR SHASTRY.,ADVOCATE)

**AND:**



Digitally signed by  
LAKSHMINARAYANA  
MURTHY RAJASHRI  
Location: HIGH  
COURT OF  
KARNATAKA

1. MR. PRASHANTH DEVADIGA  
S/O. SUDHAKAR,  
ADULT,  
R/AT MOODU MANE,  
YELLUR POST,  
PILAR UDUPI TALUK  
PIN - 574 113.
2. SHRIRAM GENERAL INSURANCE CO. LTD.,  
DIVISIONAL OFFICE:  
4TH FLOOR,  
PARADIGAM PLAZA,  
NEAR R.T.O.,



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PANDESHWAR,  
MANGALURU - 575 001,  
REP. BY ITS DIVISIONAL MANAGER.

...RESPONDENTS

(BY SRI. MALLIKARJUNA REDDY N.A., ADVOCATE FOR  
SRI. B. PRADEEP, ADVOCATE FOR R2;  
VIDE ORDER DATED 11.08.2026, NOTICE TO R1  
DISPENSED WITH)

THIS MFA IS FILED U/S.173(1) OF MV ACT AGAINST THE  
JUDGMENT AND AWARD DATED 06.03.2026 PASSED IN MVC  
NO.73/2022 ON THE FILE OF THE II ADDITIONAL DISTRICT  
AND SESSIONS JUDGE, AND MEMBER, MACT-III, DAKSHINA  
KANNADA, MANGALURU, PARTLY ALLOWING THE CLAIM  
PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT  
OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

### **ORAL JUDGMENT**

This appeal is filed by the claimant challenging the  
Judgment and Award dated 06.03.2026 passed in MVC  
No.73/2022 by II Additional District Judge and Member,  
MACT-III, D.K. Mangaluru.

2. Even though the matter is listed today for  
admission, with the consent of both the learned counsel



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for appellant and learned counsel for respondent No.2/insurer, the matter is taken up for disposal.

3. 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 26.07.2021 contending that the accident occurred due to rash and negligent driving by the driver of Car bearing registration No.KA-03-D-7993.

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

| Sl. No. | Particulars                             | Amount                |
|---------|-----------------------------------------|-----------------------|
| 1.      | Pain and sufferings                     | Rs. 50,000/-          |
| 2.      | Medical expenses                        | Rs. 34,740/-          |
| 3.      | Loss of amenities                       | Rs. 1,00,000/-        |
| 4.      | Food, nourishment, transportation etc., | Rs. 10,000/-          |
| 5.      | Loss of income during laid-up period    | Rs. 20,000/-          |
|         | <b>Total</b>                            | <b>Rs. 2,14,740/-</b> |



5. The Tribunal held that the rider of motorcycle has also contributed to the accident to the extent of 50% and after deducing 50%, awarded Rs.1,07,370/- with 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 challenging the said deduction to the extent of 50% in the compensation assessed and also seeking enhancement of compensation has filed the present appeal.

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

7. Learned counsel for the appellant would contend that, the claimant was a pillion rider on the motorcycle bearing registration No.KA-19-EF-8462. The rider of the said motorcycle was held to be contributed negligence in the accident to the extent of 50% by the Tribunal. The claimant being a pillion rider, can recover



the compensation amount from any of the joint tortfeasor since the negligence is a composite negligence. On that point, she placed reliance on the decision of Hon'ble Apex Court in the case of ***KHENYEI vs. NEW INDIA ASSURANCE COMPANY LIMITED AND OTHERS*** reported in ***(2015) 9 SCC 273***. She further submits that the claimant has sustained one (01) fracture and five (05) simple injuries and considering the same, the compensation awarded towards pain and sufferings, loss of amenities, attendant and conveyance charges and loss of income during laid up period are on lower side. With these, she prayed to allow the appeal.

8. Learned counsel for respondent No.2/insurer would contend that, the accident occurred in the middle of the road and there was a head on collusion and considering the same, the Tribunal has held that the rider of the motorcycle has contributed to the accident and assessed at 50%. Since the claimant was a pillion rider on the motorcycle, the Tribunal has rightly deducted 50% in



the compensation assessed. The compensation awarded on all 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/claimant and learned counsel for respondent No.2/insurer, the Court has perused the impugned Judgment and Award.

10. The Tribunal appreciating the evidence on record has held that the rider of the motorcycle bearing registration No.KA-19-EF-8462 has contributed to the accident and his negligence is assessed at 50% and the negligence of the driver of Car bearing registration No.KA-03-D-7993 is assessed at 50%.

11. The appellant/claimant was a pillion rider of the motorcycle bearing registration No.KA-19-EF-8462, there is a composite negligence on the part of the rider of



motorcycle bearing registration No.KA-19-EF-8462 and the driver of the Car bearing registration No.KA-03-D-7993.

12. The Hon'ble Apex Court in the case of ***KHENYEI*** *supra*, has observed as under:

**"15.** *There is a difference between contributory and composite negligence. In the case of contributory negligence, a person who has himself contributed to the accident cannot claim compensation for the injuries sustained by him in the accident to the extent of his own negligence; whereas in the case of composite negligence, a person who has suffered has not contributed to the accident but due to the outcome of combination of negligence of two or more other persons. This Court in T.O. Anthony v. Karvarnan [(2008) 3 SCC 748 : (2008) 1 SCC (Civ) 832 : (2008) 2 SCC (Cri) 738] has held that in case of contributory negligence, the injured need not establish the extent of responsibility of each wrongdoer separately, nor is it necessary for the court to determine the extent of liability of each wrongdoer separately. It is only in the case of*



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*contributory negligence that the injured himself has contributed by his negligence in the accident. Extent of his negligence is required to be determined as damages recoverable by him in respect of the injuries have to be reduced in proportion to his contributory negligence. The relevant portion is extracted hereunder: (SCC pp. 750-51, paras 6-7)*

*"6. 'Composite negligence' refers to the negligence on the part of two or more persons. Where a person is injured as a result of negligence on the part of two or more wrongdoers, it is said that the person was injured on account of the composite negligence of those wrongdoers. In such a case, each wrongdoer, is jointly and severally liable to the injured for payment of the entire damages and the injured person has the choice of proceeding against all or any of them. In such a case, the injured need not establish the extent of responsibility of each wrongdoer separately, nor is it necessary for the court to determine the extent of liability of each wrongdoer separately. On the other hand where a person suffers injury, partly due*



*to the negligence on the part of another person or persons, and partly as a result of his own negligence, then the negligence on the part of the injured which contributed to the accident is referred to as his contributory negligence. Where the injured is guilty of some negligence, his claim for damages is not defeated merely by reason of the negligence on his part but the damages recoverable by him in respect of the injuries stand reduced in proportion to his contributory negligence.*

*7. Therefore, when two vehicles are involved in an accident, and one of the drivers claims compensation from the other driver alleging negligence, and the other driver denies negligence or claims that the injured claimant himself was negligent, then it becomes necessary to consider whether the injured claimant was negligent and if so, whether he was solely or partly responsible for the accident and the extent of his responsibility, that is his contributory negligence. Therefore where the injured is himself partly liable, the principle of 'composite negligence' will not apply nor can*



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*there be an automatic inference that the negligence was 50:50 as has been assumed in this case. The Tribunal ought to have examined the extent of contributory negligence of the appellant and thereby avoided confusion between composite negligence and contributory negligence. The High Court has failed to correct the said error."*

There is a composite negligence on the part of the rider of the motorcycle and driver of the Car.

13. The appellant/claimant being a pillion rider of the motorcycle has not contributed to the accident, but he has suffered injuries in the accident that occurred due to the negligence of other persons. Even though the Tribunal has assessed the contributory negligence of the rider of the motorcycle at 50%, the claimant being injured, who has not contributed to the accident, he is entitled to sue both or any of the joint tortfeasor as per the decision of Hon'ble Apex Court in the case of **KHENYEI** *supra*.



Therefore, the order of the Tribunal deducting 50% of the compensation awarded on the ground that there is a contributory negligence on the part of the rider of the motorcycle on which the appellant/claimant was a pillion rider is not proper and requires to be set-aside. Accordingly, it is set-aside.

14. The appellant/claimant has sustained fracture of left distal radius and other four simple injuries. The claimant has been admitted in hospital for sixteen (16) days. Considering the said aspect, the Tribunal has rightly awarded the compensation awarded towards pain and sufferings in a sum of Rs.50,000/-, loss of amenities in a sum of Rs.1,00,000/-, attendant, conveyance charges, food and nourishment etc. in a sum of Rs.10,000/-, loss of income during laid up period in a sum of Rs.20,000/- and medical expenses in a sum of Rs.34,740/- and there are no grounds for enhancement of the compensation assessed by the Tribunal.



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15. Considering all the above aspects, the claimant is entitled to entire compensation assessed by the Tribunal in a sum of Rs.2,14,740/- with interest at the rate of 6% per annum from the date of petition till realisation.

16. Respondent No.2/insurer is liable to pay the entire compensation amount with interest.

17. In view of the above, the following:

**ORDER**

- i) *Miscellaneous First Appeal is **allowed-in-part.***
- ii) *The order of the Tribunal regarding deducting 50% towards contributory negligence in the compensation awarded is **set-aside.***
- iii) *The appellant/claimant is entitled to entire compensation of Rs.2,14,740/- with interest at the rate of 6% per annum from the date of petition till realisation.*
- iv) *Respondent No.2/insurer shall deposit the entire compensation amount with interest*



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

- v) *The appellant/claimant is entitled to release of entire compensation with interest.*

**Sd/-**  
**(SHIVASHANKAR AMARANNAVAR)**  
**JUDGE**

KLV  
List No.: 1 SI No.: 58