



CNR: KAHC010518242019

NC: 2026:KHC:36947
MFA No. 636 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO. 636 OF 2020 (MV-I)

BETWEEN:

SRI SURESH
S/O SHYAMANNA,
AGED ABOUT 50 YEARS,
R/AT NO 24, ARISINADAHALLI,
TURUVEKERE,
TUMKUR DISTRICT 572 227

...APPELLANT

(BY SRI. RAGHU R, ADVOCATE)

AND:

1. IFFCO-TOKIO GENERAL
INSURANCE COMPANY LTD.,
REGIONAL OFFICE NO 8,
III MAIN, SHANTHI TOWERS,
V FLOOR, EAST TO NGF LAYOUT,
KASTURINAGAR,
BENGALURU 560043,
REP BY ITS MANAGER

2. MR. K VINOD KUMAR
S/O VENKATRAMAPPA,
NO.141, HULIMANGALA,
ANEKAL TALUK, BENGALURU 560 100

...RESPONDENTS

(BY SRI. P.S JAGADISH, ADVOCATE FOR R1,
NOTICE TO R2 IS DISPENSED WITH)

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:36947
MFA No. 636 of 2020

CNR: KAHC010518242019

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED. 03.09.2019, PASSED IN MVC NO.2527/2018, ON THE FILE OF THE VIII-ADDITIONAL SMALL CAUSES JUDGE AND ACMM., MEMBER, MACT, BENGALURU (SCCH-5), PARTLY 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 RAJESH RAI K

ORAL JUDGMENT

1. The claimant, being dissatisfied with the compensation of Rs.8,90,000/- awarded by the Tribunal vide judgment and award dated 03.09.2019 in MVC.No.2527/2018 is in appeal.
2. The fact that the accident occurred and the further fact that the offending vehicle was insured are not in dispute.
3. The Tribunal, on assessment of evidence, has awarded the following sums as compensation:

Sl. No.	Particulars	Amount in (Rs.)
I.	Expenses relating to :	



CNR: KAHC010518242019

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MFA No. 636 of 2020

	to treatment ,hospitalization, medicines, transportation (Rs.94,310 rounded off to Rs.94000)	94,000
	b)nourishing food and miscellaneous expenditure	15,000
2.	Loss of earnings which the injured would have made had he not been injured ,comprising	
	a)Loss of earnings during period of treatment	9,000
	b)Loss of future earnings on account of permanent disability	5,62,000
	(Rs.9,000x12x13x40%=Rs.5,61,600 rounded Off to Rs.5,62,000)	
3.	Future medical expenses	15,000
	a)For fixation of artificial limb	50,000
II.	NON pecuniary Damages	
4.	Damages for pain ,sufferings and trauma as a consequence of the injuries	1,00,000
5.	Loss of amenities (and /loss of prospects of marriage)	25,000
6.	Loss of expectation of life (shortening of normal longevity)	20,000
	TOTAL	8,90,000

4. The Tribunal, on an analysis of medical evidence, has concluded that the claimant has suffered permanent disability to the extent of 40% to the whole body.

5. I have perused the evidence of the Doctor-PW3 and the wound certificate. The same depicts that the claimant has



CNR: KAHC010518242019

NC: 2026:KHC:36947
MFA No. 636 of 2020

suffered fracture of both bone of type 3 open left distal and fracture of type 1 right ulna and underwent amputation of below knee and surgery on his right hand. The claimant was a mason and due to amputation of his leg below knee, it is obvious that he cannot carry on his work as he was doing it before the accident and as such, the disability suffered by him has affected his avocation completely. The Hon'ble Apex Court in the case of **PARAMESH Vs. VRL LOGISTICS LTD. & ANOTHER** passed in Civil Appeal No.8708/2026 arising out of SLP.(Civil) No.35337/2025, referring to the judgment in the case of **RAJ KUMAR VS. AJAY KUMAR & ANOTHER - (2011) 1 SCC 343** has held 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. As such, the amputation of leg has not merely caused physical disability to the claimant, but has rendered him



CNR: KAHC010518242019

incapable of effectively carrying on the manual and physical work which constituted his only source of livelihood. In such circumstances, restricting the loss of earning capacity to 40% merely on the basis of physical disability would not be justified. Hence, the loss of earning capacity suffered by the claimant deserves to be assessed by treating the functional disability at 100%.

6. The Tribunal has determined the monthly income, notionally at Rs.9,000/-. Since there is no credible documentary evidence to ascertain the actual monthly income, it would be appropriate and prudent to adopt the monthly income determined by Karnataka State Legal Services Authority, which, for the accident of the year 2018, would be Rs.12,500/-.

7. As the claimant was aged 49 years and was self employed and the disability is assessed at 100%, a multiplier of '13' would have to be applied and further 25% requires to be added towards future prospects. Consequently, the claimant would be entitled to a sum of **Rs.24,37,500/-** (Rs.12,500 + 25% x 12 x 13 x 100%) towards '*loss of future income*'.



CNR: KAHC010518242019

8. As a consequence, the amount of Rs.9,000/- awarded Tribunal towards '*loss of income during the laid up period*' would also stand enhanced to **Rs.37,500/-** (Rs.12,500 x 3 months) treating the laid up period as three months.

8. Having regard to the lasting effects of the injuries on the claimant, the claimant would be entitled to a sum of **Rs.50,000/-** towards loss of amenities, as against the sum of Rs.25,000/- awarded by the Tribunal.

10. The sum of **Rs.1,00,000/-** awarded towards pain and suffering, **Rs.15,000/-** awarded towards conveyance, food and nourishment and attendant charges and **Rs.20,000/-** awarded towards loss of expectation of life by the Tribunal, being just and proper, are affirmed. Further, the sum of **Rs.94,000/-** awarded towards medical expenses, being based on documentary evidence, is affirmed.

11. As regards future medical expenses, it is contended by the learned counsel for the claimant that the Tribunal has committed a grave error by awarding a sum of Rs.65,000/-. As stated by the Doctor - PW-3, the claimant's left lower limb has



CNR: KAHC010518242019

NC: 2026:KHC:36947
MFA No. 636 of 2020

been amputated and he needs artificial limb, which also needs to be maintained. In view of the recent judgment of the Hon'ble Apex Court in the case of **TATA AIG GENERAL INS. CO. LTD. Vs. SURAJ KUMAR AND OTHERS - 2025 ACJ 1314**, the Apex Court has come to the conclusion that the prosthesis limb would have to be changed every 5 years and while awarding compensation, it has taken the life expectancy at 70 years and awarded compensation under the head of artificial limb. In the instant case, the claimant is aged 49 years and taking note of life expectancy at 70 years, I deem it appropriate to award a total lumpsum of **Rs.8,00,000/-** towards artificial limb as against Rs.65,000/- awarded by the Tribunal.

12. Consequently, the award of the Tribunal is modified and the claimant would be entitled to the following compensation:

SI No.	Compensation under different Heads	As awarded by the Tribunal (Rs.)	As awarded by this Court (Rs.)
1.	Pain and sufferings	1,00,000	1,00,000
2.	Laid up period	9,000	37,500
3.	Medical expenses	94,000	94,000



CNR: KAHC010518242019

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MFA No. 636 of 2020

4.	Conveyance, food, nourishment, attendant charges	15,000	15,000
5.	Loss of amenities in life	25,000	50,000
6.	Loss of future income	5,62,000	24,37,500
7.	Future medical expenses	65,000	8,00,000
8.	Loss of expectation of life	20,000	20,000
	Total	8,90,000	35,54,000

13. Thus, the claimant is held entitled to the total compensation of **Rs.35,54,000/-** as against Rs.8,90,000/-, along with interest at the rate of 6% per annum from the date of petition till its realization.

14. The Insurance Company is directed to deposit the amount of compensation awarded within six weeks from the date of receipt of a certified copy of this judgment.

The appeal is accordingly ***allowed in part.***

**SD/-
(RAJESH RAI K)
JUDGE**