



NC: 2026:KHC:26092-DB
MFA No. 9733 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF JUNE, 2026

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO.9733 OF 2018(MV-I)

BETWEEN:

UDAYA ACHAR
AGED ABOUT 42 YEARS,
S/O MANJUNATH ACHAR,
R/O NEAR KALYANI MADHARI,
HIGHER PRIMARY SCHOOL,
TRASI VILLAGE, KUNDAPURA TALUK,
UDUPI DISTRICT-576 201.

...APPELLANT

(BY SRI. PAVANA CHANDRA SHETTY.H., ADVOCATE)

AND:

1. JAGADHEESHWARA,
AGED ABOUT 39 YEARS,
S/O MALLAPPA,
R/O BHAGOJI, HAVERI PETE,
MURTHUNJAYA NAGARA,
SAVADATTI ROAD,
DHARWAD-580 001.
2. SHRI RAM GENERAL INSURANCE CO. LTD.,
E-8, EPIP, SITAPURA INDUSTRIAL AREA,
JAIPURA, RAJASTHANA-302 004.
REPRESENTED BY ITS BRANCH MANAGER.

...RESPONDENTS

(BY SRI. B.C.SHIVANNEGOWDA., ADVOCATE)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 04/01/2018, PASSED IN MVC
NO.372/2016, ON THE FILE OF THE ADDITIONAL DISTRICT

Digitally signed by
SUMATHY KANNAN
Location: HIGH COURT
OF KARNATAKA



JUDGE AND ADDITIONAL MACT, UDUPI, (SITTING AT KUNDAPURA), 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 JAYANT BANERJI
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present appeal seeks to challenge the Judgment and Award dated 04.01.2018 in M.V.C.No.372/2016 passed by the learned Additional District Judge and Addl. MACT, Udupi, (Sitting at Kundapura), Kundapura (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded Rs.5,85,320/- to the appellant/claimant with interest at 6% per annum from the date of petition till its realisation.

2. This appeal has been filed by the appellant/claimant seeking for an enhancement of the amounts awarded. Since there was no breach of Insurance Policy, notice to respondent No.1/owner has been dispensed with, by order



dated 04.06.2021. This matter was heard with the consent of the parties, at the admission stage itself.

3. The brief facts that are relevant in the case are that the appellant/claimant was riding his Motor Cycle bearing Registration No.KA-20-ED-0325 on 14.12.2015 from Kundapura towards Bhatkal, when a lorry bearing Registration No.MH-06-AC-4785 being driven in a rash and negligent manner at a high speed, had collided with the motor cycle. As result of the collision, the appellant/claimant sustained grievous injuries all over his body and was immediately shifted to KMC Hospital, Manipal.

3.1 It is averred that the appellant/claimant was treated as an in-patient and spent Rs.3,00,000/- towards treatment, nourishing food, attendant charges, etc. The appellant/claimant contended that he had taken treatment as an out-patient and that he had spent amounts on his treatment. In this behalf he stated that he also required a sum of Rs.1,00,000/- towards future treatment and



surgery. A claim petition was filed by the appellant/claimant under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'MV Act') before the learned Tribunal seeking compensation.

4. The respondent No.1/owner being the driver of the offending vehicle, did not appear before the learned Tribunal and was proceeded *exparte*. The claim petition was contested only by respondent No.2/Insurance Company before the learned Tribunal.

5. Based on the pleadings between the parties, the following Issues were framed by the Learned Tribunal:

"ISSUES

"1. Whether the petitioner proves that petitioner sustained bodily injuries arising out of the accident that took place on 14-12-2015 at about 02:45 p.m., near Trasi Beach, Trasi Village. on N.H.66, Kundapura Taluk. at that time by use of the Lorry bearing Reg. No.MH-06-AC-4785, driven by its driver and due to actionable negligence of driver of the offending vehicle Lorry bearing Reg.No.MH-06-AC-4785?

2. Whether respondent No.2 proves that the driver of the Lorry bearing Reg. No.MH-06-AC-4785, holding valid and effective driving license to drive the said vehicle at the time of alleged accident?



3. Whether the petitioner is entitled for compensation as sought for? If so what is the quantum and from whom?

4. What order or award?"

6. The appellant/claimant was examined as PW.1 and he examined his Doctor namely, Dr. Ashwath Acharya, as PW.2 and also marked 11 documents namely Exhibit P1 (FIR with complaint), Exhibit P2 (spot mahazar), Exhibit P3 (spot sketch), Exhibit P4 (wound certificate), Exhibit P5 (police notice), Exhibit P6 (Medical bills-15), Exhibit P7 (copy of aadhar card of claimant), Exhibit P8 (Treatment certificate), Exhibit P9 (Disability certificate), Exhibit P10 (Medical file) and Exhibit P11 (X-rays-8). The respondent No.2/Insurance Company however did not lead any evidence but produced documents namely Exhibit R1 – Authorization letter and Exhibit R2 – Insurance Policy in support of their case.

7. Based on the evidence and the pleadings of the parties, the learned Tribunal found that the disability assessed by the Doctor was at 25% permanent disability to his left lower limb function, 10% disability of his spine



and 14% disability of his left shoulder function. Thus, the learned Tribunal assessed the functional disability of the whole body at 29.5%. Given that the accident had occurred in the year 2015, monthly income of the appellant/claimant was taken at Rs.9,000/-. Further, since that the petitioner was 46 years old, multiplier of '13' was used and the learned Tribunal calculated loss of future earning capacity at Rs.4,14,180/-. The learned Tribunal also awarded compensation for Injury, pain and suffering, actual medical expenses, loss of earning during bed rest, conveyance, nourishment and attendant charges, in the following amounts:

Sl.No.	Heads of Compensation	Amount (Rs.)
1	Injury, pain & Sufferings	1,00,000-00
2	Medical expenses	3,538-00
3	Loss of earning during treatment	3,600-00
4	Loss of earning during bed rest	54,000-00
5	Loss of future earning capacity	4,14,180-00
6	Conveyance, Nourishment and Attendant charges	10,000-00
	TOTAL	5,85,318-00

7.1 Thus, an amount of Rs.5,85,320/- along with interest at 6% per annum was awarded by the learned Tribunal.



HC-KAR

8. The challenge in the present appeal by the learned counsel for the appellant/claimant, is on the ground that the compensation awarded is inadequate inasmuch as the learned Tribunal, while computing loss of future earning capacity, failed to add 25% towards future prospects though the claimant was self-employed and aged 46 years. It is further contended that the amounts awarded towards conveyance, nourishment and attendant charges is insufficient considering the nature of injuries and hospitalization and that no compensation has been awarded towards loss of amenities despite permanent disability and multiple fractures suffered by the claimant.

9. Learned counsel for respondent No.2/Insurance Company, on the other hand submits that the Impugned Order does not suffer from any infirmity. He submits that the amounts awarded are in accordance with the settled principles.

10. The issue that arises for determination before this Court is whether the compensation that has been awarded by the learned Tribunal is in accordance with law?



11. An examination of the documents produced before this Court reveals that though the appellant/claimant had suffered multiple fractures and also permanent disability of 29.5% to his whole body, however the learned Tribunal has not awarded any compensation towards loss of amenities. Hence, we find that it would be just and proper to grant compensation of a sum of Rs.50,000/- towards 'loss of amenities'.

12. Taking into consideration that the appellant/claimant was an in-patient for a period of 12 days, it would be apposite to enhance the compensation towards 'conveyance, nourishment and attendant charges'. Further, while computing compensation towards 'loss of future earning capacity', the learned Tribunal has failed to add 'future prospects' to the income. Hence, we find it just and apposite to add 25% of the income as 'future prospects'. Thus taking Rs.9,000/- as the monthly income of the appellant/claimant and adding 25% towards 'future prospects' and with 29.5% as the whole body disability,



the compensation towards 'loss of future earning capacity' would be re-computed as under:

Head	Amount
Loss of future earning capacity	$(9000 + 25\% \text{ Future Prospects} \times 12 \times 13) \times 29.5\%$ $= 11250 \times 12 \times 13 \times 29.5\%$ =5,17,725/-

13. Accordingly, the compensation awarded by the Tribunal is re-assessed as follows:

Sl.No.	Heads of Compensation	Amount (Rs.)
1	Towards Pain & Sufferings	1,00,000-00
2	Medical expenses	3,538-00
3	Loss of income during laid-up period	57,600-00
4	Loss of future earning capacity	5,17,725-00
5	Conveyance, nourishment and attendant charges	15,000-00
6	Loss of amenities	50,000-00
	TOTAL	7,43,863-00
	Less: Awarded by Tribunal	5,85,318-00
	Enhanced compensation	1,58,545-00

14. Hence, the appellant/claimant is entitled to total compensation of **Rs.7,43,863/-** along with interest at 6% per annum as awarded by the learned Tribunal from the date of petition till the date of realization.



15. Accordingly, the Court proceeds to pass the following:

ORDER

(i) The appeal is ***allowed in part;***

(ii) The Impugned Judgment and Award dated 04.01.2018 in MVC No.372/2016 passed by the learned Addl. District Judge and Addl. MACT, Udupi (Sitting at Kundapura), Kundapura, is modified, to the extent that the appellant/claimant is entitled to enhanced compensation of **Rs.1,58,545/-** along with interest at the rate of 6% per annum in addition to **Rs.5,85,318/-** already awarded by the learned Tribunal.

(iii) The remaining portion of the Impugned Award of the learned Tribunal remains undisturbed.

(iv) The respondent No.2/Insurance Company shall deposit the enhanced compensation with interest applicable thereon, as awarded by the



learned Tribunal, within a period of eight weeks from the date of receipt of a copy of this judgment;

(v) On such deposit of compensation, the same shall be released in favour of the appellant/claimant, on filing of an appropriate application by the appellant/claimant for withdrawal of the enhanced amount.

(vi) The Registry is directed to draw the modified Award accordingly.

(vii) The Registry is directed to transmit a copy of this judgment to the concerned Tribunal.

(viii) No order as to costs.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

KS
List No.: 1 Sl No.: 5