



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCELLANEOUS FIRST APPEAL NO. 7538 OF 2016 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 3106 OF 2017 (MV-I)

IN MFA No. 7538/2016

BETWEEN:

M/S UNIVERSAL SOMPO GENERAL INSURANCE
COMPANY LTD.,
K.V.D TOWERS, NO.7/3, 2ND FLOOR,
ABOVE BARCLAYS FINANCE, OPP. 100 FEET ROAD,
INDIRANAGAR, BANGALORE.
THROUGH ITS MAIN OFFICE.

...APPELLANT

(BY SRI B PRADEEP, ADVOCATE)

AND:

1. SRI RUDREGOWDA,
S/O G LOKESHWARAPPA,
NOW AGED ABOUT 37 YEARS,
R/AT # 74, 2ND MAIN ROAD,
ANUGRAHA LAYOUT, KODICHIKKANAHALLI,
B.G.ROAD, BANGALORE-76.
2. AXIS CARRIERS AND LOGISTICS LTD.,
OVALA VILLAGE, NEAR SHREERAM HOSPITAL,
G.B.ROAD, THANE WEST, THANE-400 602.
(OWNER OF THE CANTER LORRY
REG NO NL-01-G-6071)

...RESPONDENTS

(BY SRI B BOPANNA, ADVOCATE FOR R-1;

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by NANDINI R
Location:
HIGH COURT
OF
KARNATAKA



NC: 2026:KHC:2650
MFA No. 7538 of 2016
C/W MFA No. 3106 of 2017

R-2 SERVED & UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 20.06.2016 PASSED IN MVC NO.6418/2013 ON THE FILE OF THE X ADDITIONAL JUDGE, COURT OF SMALL CAUSES, BANGALORE, AWARDED COMPENSATION OF RS.3,07,786/- WITH INTEREST @ 9% P.A.(EXCLUDING FUTURE MEDICAL EXPENSES OF Rs.15,000/-) FROM THE DATE OF PETITION TILL REALIZATION.

IN MFA NO. 3106/2017

BETWEEN:

SRI RUDREGOWDA,
S/O G LOKESHWARAPPA,
AGED ABOUT 38 YEARS,
R/A NO. 74. 2ND MAIN ROAD,
ANUGRAHA LAYOUT,
KODICHIKKANAHALLI, B G ROAD,
BANGALORE-560 076.

...APPELLANT

(BY SRI B BOPANNA, ADVOCATE)

AND:

1. AXIS CARRIERS & LOGISTICS LTD.,
REP. BY ITS MANAGER,
OVALA VILLAGE, NEAR SHREERAM HOSPITAL,
G B ROAD, THANE WEST,
THANE-400 602.
(OWNER OF THE VEHICLE CANTER LORRY
BEARING REGISTRATION NO.NL-01-G-6071)
2. UNIVERSAL SOMPO GENERAL INSURANCE CO. LTD.,
REPTD. BY ITS MANAGER,
PLOT NO.EL-94, TTC INDL AREA,
MIDC MAHAPE, NEW MUMBAI-400 701.
(POLICY COVER NOTE NO.USGIA0001279934
VALID FROM 16/12/2012 TO 15/12/2013)



NC: 2026:KHC:2650
MFA No. 7538 of 2016
C/W MFA No. 3106 of 2017

3. UNIVERSAL SOMPO GENERAL INSURANCE CO. LTD.,
REPTD. BY ITS MANAGER,
KVD TOWERS, NO.7/3,
2ND FLOOR, ABOVE BARCLAYS FINANCE,
OPP.100 FEET ROAD, OLD MADRAS ROAD,
INDIRANAGAR, BANGALORE-560 038.

...RESPONDENTS

(BY SRI B PRADEEP, ADVOCATE FOR R-2;
V/O DATED 24.04.2018 NOTICE TO R-3 IS DISPENSED
WITH;
R-1 SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 20.06.2016 PASSED
IN MVC NO.6418/2013 ON THE FILE OF THE X ADDITIONAL
JUDGE, COURT OF SMALL CAUSES AND MACT BANGALORE
(SCCH-16), PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

THESE APPEALS, COMING ON FOR HEARING, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

Heard the learned counsel appearing for the
appellant and the respondent.

2. These appeals arise out of the judgment and
award in MVC.No.6418/2013 by the learned X Additional
Judge, Court of Small Causes (SCCH-16), Bengaluru dated
20.06.2016.



3. The factual matrix of the case is that on 10.09.2013 at about 05.30 a.m., while the petitioner with his family members was proceeding in a Santro Car from Havari towards Bengaluru, near Thippagondanahalli on National Highway No.4, a Canter Lorry bearing No.NL-01-G-6701 was parked on the road having no access to the moving vehicles without any indicators. The car of the petitioner dashed against the rear side of the parked lorry, resulting in the petitioner sustaining injuries. He was shifted to Ramaiah Harsha Hospital, Nelamangala and the jurisdictional Police registered a case against the driver of the cantor lorry and ultimately, filed a charge sheet against him. The petitioner approached the Tribunal seeking compensation from the owner and insurer of the lorry.

4. The respondent No.2 and respondent No.3 are the same Insurance Company and it filed a written statement contending that the negligence was on the part of the driver of the Santro Car but not the lorry driver. It



contended that the provisions of Motor Vehicles Act were not complied by respondent No.1 and therefore, it is not liable to pay any compensation. It was also contented that the compensation claimed is highly exorbitant, imaginary and untenable and the driver of the lorry had no driving licence and as such, its liability be absolved.

5. On the basis of the above contentions, appropriate issues were framed by the Tribunal and the petitioner was examined as PW.1. Two witnesses were examined on his behalf as PW.2 and PW.3 and Exs.P1 to 15 were marked in evidence. No evidence was led on behalf of the respondents.

6. After hearing both the sides, the Tribunal held that the negligence was on the part of the parked canter lorry and as such, it determined the compensation of Rs.3,07,786/- under following heads:

SL. NO.	PARTICULARS	AMOUNT (IN RS.)
1	Pain and sufferings	40,000/-
2	Attendant charges, extra nutritious food and	5,000/-



	conveyance expenses	
3	Medical expenses	83,786/-
4	Loss of income during laid of period	28,000/-
5	Loss of future income due to permanent disability	1,21,000/-
6	Loss of future amenities and happiness	15,000/-
7	Future medical expenses	15,000/-
	TOTAL	3,07,786/-

7. The Tribunal also directed the Insurance Company to compensate the petitioner.

8. Being aggrieved, the Insurance Company is in appeal before this Court in MFA.No.7538/2016 and the petitioner is before this Court in appeal in MFA.No.3106/2017.

9. Learned counsel appearing for the petitioner submits that the compensation awarded by the Tribunal is on the lower side and the notional income of the petitioner is not considered appropriately. He submit that the nature of the injuries suggests that he was unable to perform his duties and as such, the disability considered by the Tribunal is not proper and correct.



10. Learned counsel appearing for the appellant-Insurance Company would submit that the Tribunal has not considered the contributory negligence on the part of the petitioner and since it was a parked canter lorry, it was visible from quite sufficient distance and as such, the negligence was also on the part of the car driver. He submits that the compensation determined by the Tribunal is proper and correct. He also submits that the rate of interest awarded by the Tribunal is on the higher side.

11. The first aspect to be considered by this Court is 'whether there is any contributory negligence on the part of the petitioner?' The Tribunal in paragraph No.16 appreciates the evidence on record at length and comes to the conclusion that the lorry had halted on the road by occupying 05 feet space on the road and there was a duty cast upon the driver to put on the indicators whenever he parks the vehicle especially on the highway. It observes that the driver of the canter lorry had parked the vehicle without any indicators and therefore, there was negligence



on his part. This conclusion of the Tribunal is obviously based upon the testimony of the witnesses and the spot mahazar, which is at Ex.P3. It is to be noted that nothing was placed on record on behalf of the appellant-Insurance Company to show that there was any negligence on the part of the petitioner. The cross-examination of the petitioner do not reveal anything which suggests that there was negligence on the part of the car driver. Therefore, when the Police papers as well as the testimony of the witnesses clearly indicate that there was negligence on the part of the lorry driver, this Court also do not find any reason to interfere with the conclusions reached by the Tribunal in this regard.

12. Coming to the quantum of the compensation, the medical records produced before the Tribunal indicate that petitioner had sustained a comminuted fracture of 1/3rd of the right femur, cut lacerated wound on scalp and he had underwent closed reduction and internal fixation (CRIF) and wound debridement. The petitioner had also sustained fractures in the anterior wall of the bilateral



maxillary and ethmoid sinuses with hemosinus, fracture of the nasal bone and soft tissue injury in bilateral premaxillary and perinasal regions. The discharge summary shows that he was inpatient from 10.09.2013 to 13.09.2013. It is also evident that there was a lacerated wound exposing the tibia of the left leg at mid-third. The testimony of PW.3 shows that in his opinion the disability is 28% to the left lower limb and 14% to the whole body. It is pertinent to note that the functional disability has to be assessed by the Tribunal but not the Medical Officer. The physical disability assessed by PW.3 at 28% to the left lower limb has to be translated into functional disability by the Tribunal. Obviously, the functional disability relates to the avocation of the petitioner and the relative disability that would affect him on account of the physical injuries suffered by him. The petitioner claims that he was doing milk vending business, aged about 35 years. Therefore, the functional disability assessed by the Tribunal at 9% has to be considered at 10%.



13. The Tribunal has taken the notional income at Rs.7,000/- per month in the absence of any cogent proof regarding the income. The guidelines issued by the KSLSA for the purpose of settlement of the disputes before the Lok-Adalath prescribe, a notional income of Rs.8,000/- for the year 2013. Therefore, the 'loss of future income due to disability' is calculated as $\text{Rs.8,000/-} \times 12 \times 10\% \times 16 = \text{Rs.1,53,600/-}$. As a consequence, the 'loss of income during laid up period' for a period of four months is calculated as $\text{Rs.8,000/-} \times 4 = \text{Rs.32,000/-}$.

14. The compensation awarded by the Tribunal under head of 'pain and sufferings' requires enhancement to Rs.50,000/-. 'Loss of future amenities' also needs enhancement and it is enhanced to Rs.25,000/-. Obviously, the petitioner requires further treatment as stated by PW.3. Hence, the same is assessed at Rs.25,000/-.

15. The compensation awarded by the Tribunal under the head of 'attendant charges, conveyance



expenses' and 'medical expenses' do not require any interference.

16. Thus, the petitioner is entitled for the modified compensation under different heads as below:

PARTICULARS	AMOUNT (IN RS.)
Loss of future income due to disability	1,53,600/-
Loss of income during laid up period	32,000/-
Pain and sufferings	50,000/-
Loss of future amenities	25,000/-
Future medical expenses	25,000/-
Attendant charges, conveyance expenses and medical expenses	5,000/-
Medical expenses	83,786/-
TOTAL	3,74,386/-
Less awarded by Tribunal	3,07,786/-
Enhancement	66,600/-

17. So far as the interest awarded by the Tribunal at 9% is concerned, it is now settled that the rate of interest shall be 6% per annum. Therefore, to that extent, the appeal filed by the Insurance Company deserves to be allowed. Thus, the petitioner is entitled for an additional



compensation of Rs.66,600/- with interest. Hence, the following:

ORDER

- (i) Both the appeals are allowed-in-part.
- (ii) The petitioner is entitled for a sum of Rs.3,74,386/- instead of Rs.3,07,786/- awarded by the Tribunal, along with interest at the rate of 6% per annum from the date of petition till its deposit before the Tribunal excluding the interest for 'future medical expenses'.
- (iii) The amount in deposit before this Court be transmitted to the Tribunal, forthwith.
- (iv) Rest of the order passed by the Tribunal remain unaltered.

Sd/-
(C M JOSHI)
JUDGE