



CNR: KAHC010532602015

NC: 2026:KHC:38052
MFA No. 8452 of 2015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 8452 OF 2015 (MV-I)

BETWEEN:

PAVAN D'SOUZA
S/O ANTONY D'SOUZA,
AGED ABOUT 24 YEARS,
RESIDING AT "ST. ANTONY KRIPA",
NEELAVARA, UDUPI DISTRICT - 576 213.

...APPELLANT

(BY SRI. MAHESH SHETTY, ADVOCATE)

AND:

1. SUERSH N. KARKERA
S/O NARAYANA POOJARY,
AGED ABOUT 38 YEARS,
R/AT MANJUNATH NILAYA,
MATAPADY POST AND VILLAGE,
UDUPI TALUK - 576 213.

2. SURESH POOJARY
S/O NARAYANA POOJARY,
MAJOR,
R/AT MANJUNATH NILAYA,
MATAPADY POST AND VILLAGE,
UDUPI TALUK - 576 213.

3. THE ORIENTAL INSURANCE CO.LTD.,
EXTENSION COUNTER,

Digitally signed
by
PADMASHREE
SHEKHAR DESAI

Location: High
Court of
Karnataka



CNR: KAHC010532602015

NC: 2026:KHC:38052
MFA No. 8452 of 2015

MASTHI TOWER,
MASTHIKATTE MAIN ROAD,
KUNDAPURA - 576 201.

...RESPONDENTS

(BY SRI. ASHOK N. PATIL, ADVOCATE FOR R3;
VIDE ORDER DATED 08.07.2021, NOTICE TO R1 AND R2
ARE DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 17.07.2013 PASSED IN MVC
NO.27/11 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL
JUDGE & ADDITIONAL MACT, UDUPI, 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 MRS. JUSTICE P SREE SUDHA

ORAL JUDGMENT

This appeal is filed by the appellant/claimant under
Section 173(1) of Motor Vehicles Act, 1988 challenging the
judgment and award dated 17.07.2013 passed in MVC
No.27/2011 on the file of the Principal Senior Civil Judge and
Additional MACT, Udupi, seeking enhancement of
compensation.



2. Heard the arguments of learned counsel for the both sides. The ranks of the parties are retained as per Tribunal for the sake of convenience.

3. The petitioner/injured claimant met with an accident on 10.08.2010 and filed petition before the Tribunal for compensation of Rs.12,00,000/-. The Tribunal considering the entire evidence on record granted an amount of Rs.4,02,440/- with interest at the rate of 8% p.a., from the date of petition till the date of deposit.

4. Aggrieved by the said order, this appeal is filed and mainly contended that the petitioner was an inpatient for a period of four days in KMC Hospital and has undergone surgery. He was in bed rest for more than a year. After discharge, he had visited the hospital for follow-up treatment for not less than 15-16 times. The petitioner taken the treatment in George D'Souza, Fiona Health Center, for a period of 270 days. But the Tribunal granted meagre amounts under the other heads. The petitioner was studying in II year B.Com, at First Grade College of Barkur, Udupi District and was also doing a part-time job in Prestige Earth Movers at Chantharu, earning a sum of



Rs.6,000/- per month. The petitioner examined principal of the college as PW.4 and he stated that the petitioner discontinued his studies after the accident. The Tribunal has taken the income of the petitioner as Rs.3,500/- per month, which is on the lower side. PW.3-doctor stated that the petitioner sustained grievous injuries and assessed the disability at 71% to the right upper limb and 24% to the whole body. The petitioner lost his academic career due to the disability sustained in the accident. But the amounts granted by the Tribunal are on the lower side. Therefore, requested for enhancement of the compensation.

5. The petitioner examined his employer as PW.2 and he stated that the petitioner was working with him as a manager cum accountant since April 2009 to 09.08.2010 and was drawing a salary of Rs.6,000/- per month. He also filed a salary certificate under Ex.P.12. Admittedly, the petitioner was studying in II year B.Com, therefore, his contention that he was working and earning cannot be accepted. Considering the fact that he was a student and met with an accident in the year 2010, this Court finds that it is just and reasonable to take his notional income as Rs.5,500/- per month, as per the chart



CNR: KAHC010532602015

prepared by the Karnataka State Legal Services Authority. The petitioner was aged 19 years and the relevant multiplier is '18'. The petitioner filed wound certificate under Ex.P.2, discharge summary under Ex.P.6, disability certificate under Ex.P.9, neurology report under Ex.P.7 and examined the doctor as PW.3, who is an orthopaedic surgeon. PW.3 stated that the petitioner sustained right brachial plexus injury and was admitted on 10.08.2010 and the following treatment were given:

- "1. CTVS, neurosurgery and surgery consultation was given.
2. The injuries were managed with an arm sling.
- 3 He was discharged on 13.8.2010)."

The following findings were made as on 12.3.2012:

- "1. There is absent movement in right hand, forearm.
2. There is only a flicker of active movement at elbow.
3. There is 60% loss of power at right shoulder.
4. There is complete loss of sensation in the right hand.



NC: 2026:KHC:38052
MFA No. 8452 of 2015

CNR: KAHC010532602015

5. He is unable to use the right upper limb for any of the activities of daily living."

PW.3 further stated that the petitioner has a permanent disability of 71% for his right upper limb. Ex.P.8 is the treatment certificate issued by the Assistant Professor of Orthopaedics, with the same findings as mentioned in the disability certificate. Ex.P.7 is the Neurology report. But the concerned person who issued the said certificate has not been examined before the Court. Considering the evidence of PW.3, the Tribunal has rightly considered one third of 71% and taken the disability as 24%. This Court finds no reason to interfere with the said finding. As the petitioner sustained more than 20% disability, in view of the decision of this Court in ***New India Assurance Company Vs. Abdul S/o. Mehaboob Tahasildar*** in ***MFA No.103807/2016, dated 27.05.2022***, he is entitled to future prospects. The petitioner was aged 19 years. Therefore, he is entitled to 40% towards future prospects. Accordingly, the loss of future earning capacity comes to **Rs.3,99,168/-** ($5,500 + 40\% \times 12 \times 18 \times 24\%$). The petitioner was admitted in the hospital for a period of 274 days in total i.e., nearly 9 months. The petitioner discontinued his



CNR: KAHC010532602015

academic career, due to the injuries sustained in the accident. Considering his age, the loss of career, nature of injuries, period of hospitalization and other relevant factors, this Court finds it reasonable to grant an amount of **Rs.1,00,000/-** towards pain and suffering, **Rs.50,000/-** towards loss of amenities and **Rs.50,000/-** towards transportation, extra nourishment and attendant charges. The Tribunal already granted a sum of **Rs.63,000/-** towards medical expenses and **Rs.20,000/-** towards future medical expenses and the said amounts are confirmed. The petitioner was aged 19 years at the time of accident. He sustained injury to the right hand and he cannot really work with the said hand. Therefore this court finds that it is just and reasonable to grant an amount of **Rs.2,00,000/-** towards loss of future marriage prospects.

6. Thus in all, compensation awarded by this Court is as below:



CNR: KAHC010532602015

NC: 2026:KHC:38052
MFA No. 8452 of 2015

Sl.Nos.	Particulars	Amount in Rs.
1.	Towards pain and suffering	1,00,000/-
2	Towards medical expenses	63,000/-
3	Towards transportation, extra nourishment and attendant charges	50,000/-
4.	Towards loss of amenities	50,000/-
5	Towards future medical expenses	20,000/-
6	Towards loss of future earning capacity	3,99,168/-
7.	Towards loss of future marriage prospectus	2,00,000/-
	Total	8,82,168/-

7. Hence, the appellant-claimant is entitled for a total compensation of Rs.8,82,168/- along with interest at the rate of 6% p.a.

8. In the result, the following order is passed:

ORDER

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



CNR: KAHC010532602015

- ii. The judgment and award dated 17.07.2013 passed in MVC No.27/2011 on the file of the Principal Senior Civil Judge and Additional MACT, Udupi, is modified.
- iii. The claimant is entitled to a sum of **Rs.8,82,168/-** along with interest at 6% p.a., from the date of petition till the date of realization, instead of Rs.4,02,440/- granted by the Tribunal.
- iv. Respondent No.3/Insurance Company has already deposited the award amount before the Tribunal. Therefore, respondent No.3/Insurance Company is directed to deposit enhanced compensation of **Rs.4,79,728/-** along with the interest at the rate of 6% within one month from the date of this order.
- v. On such deposit, petitioner is permitted to withdraw the entire amount along with interest accrued on the same.



CNR: KAHC010532602015

NC: 2026:KHC:38052
MFA No. 8452 of 2015

- vi. The appellant is not entitled for interest for 759 days of delay as per order on I.A.No.1/2015 dated 10.11.2021.

Sd/-
(P SREE SUDHA)
JUDGE

AMA
List No.: 1 Sl No.: 19