



NC: 2026:KHC:49376
MFA No. 2178 of 2016

CNR: KAHC010534652016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.2178 OF 2016(MV-I)

BETWEEN:

MR MANJUNATH C
S/O CHANDRAPPA
AGED ABOUT 25 YEARS
R/A NO.971, 3RD CROSS
SANNAKKI BAYALU
VRUSHABHAVATHI NAGAR
BANGALORE - 560 079.

...APPELLANT

(BY SRI PRAKASHA HC., ADVOCATE FOR
SRI ANIL KUMAR M., ADVOCATE)

AND:

1. THE REGIONAL MANAGER
ICICI LOMBARD GEN. INS. CO. LTD.,
NO.89, SVR COMPLEX, 2ND FLOOR
HOSUR MAIN ROAD
NEAR AYYAPPA TEMPLE
MADIWALA
BANGALORE - 560 068.

2. SRI NARASE GOWDA
S/O LATE LAKKAIAH
CHOLANAYAKANAHALLI
MAGADI, RAMANAGARA
BANGALORE SOUTH.

...RESPONDENTS

(BY SRI D MANJUNATH, ADVOCATE FOR R1;
V/O/DATED 06.02.2017-NOTICE TO R2 IS D/W)

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



NC: 2026:KHC:49376
MFA No. 2178 of 2016

CNR: KAHC010534652016

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 06.08.15 PASSED IN MVC NO.556/14 ON THE FILE OF THE VIII ADDITIONAL SMALL CAUSES JUDGE AND XXXIII ACMM, MEMBER, MACT, BANGALORE, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL IS COMING ON FOR *DISMISSAL*, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 06.08.2015 passed by VIII Addl.Small Causes Judge, Member, MACT, Bengaluru, in MVC no.556/2014, this appeal is filed.

2. Sri Prakasha HC., learned counsel appearing for Sri Anil Kumar M., advocate for appellant submitted that appeal was by claimant challenging award passed by Tribunal, apportioning negligence as well as for enhancement of compensation.

3. Brief facts leading to this appeal are that at 08:15 pm on 13.08.2013, when claimant was riding motorcycle no.KA-02-HC-2194 on Bangalore-Magadi Main Road near Tavarekere, driver of Bus no.KA-42-2706 drove it in rash and negligent manner and dashed against motorcycle head-on. In accident, claimant sustained grievous injuries and despite



CNR: KAHC010534652016

treatment at Sri Lakshmi Multi Specialty Hospital did not recover fully and sustained loss of earning capacity. As on date of accident, he was earning Rs.10,000/- per month by running Ice-cream Parlour. Claiming compensation, he filed claim petition under Section 166 of Motor Vehicles Act, 1989 (**MV Act**).

4. Despite service of notice, owner did not appear and was placed *ex-parte*. Only insurer filed objections opposing claim petition on all counts. Based on pleadings, Tribunal framed following issues:

"1. Whether petitioner proves he sustained injuries in road traffic accident that occurred on 13.08.2013, at about 8:15 p.m, on Magadi Main Road, near Indian Petrol Bunk, Tavarekere, Ramanagara, Bengaluru, while the petitioner was riding of his motor cycle bearing No.KA-02-HC-2194, due to rash & negligent act of private bus driver of vehicle bearing No. KA-42-2706 has resulted in an accident?

2. Whether petitioner is entitled for compensation? If so, how much and from whom?

3. What order?"

5. Claimant examined himself and Dr.CV Kumar as PWs.1 and 2 and got marked as Exhibits P1 to P11. In rebuttal,



CNR: KAHC010534652016

respondent examined Chief Medical Officer of Lakshmi Multi Speciality Hospital as RW.1 and got marked Exhibits R1 and R2.

6. Tribunal answered issues in favour of claimant and assessed total compensation of Rs.3,22,750/- with interest at rate of 8% p.a. Dissatisfied with same, appeal was filed.

7. While passing impugned award, Tribunal apportioned negligence to extent of 25% on claimant on ground that he did not produce his driving licence, which would not be justified and contrary to ratio laid down by Hon'ble Supreme Court in case of **Sudhir Kumar Rana v. Surider Singh & Ors.** reported in **(2008) 12 SCC 436**. It was further submitted, in accident, as per Ex.P3, claimant had sustained fracture of upper 1/3rd and lower 2/3rd of right femur and fracture of left radius at distal end assessed by PW.2 to have resulted in loss of flexion of left wrist by 30 degrees, loss of extension of left wrist by 15 degrees, right hip flexion by 30 degrees, rotation by 15 degrees and right knee flexion by 40 degrees and assessed disability of 40% to right lower limb, 20% to left upper limb and 20% to whole body. However,



CNR: KAHC010534652016

Tribunal denied compensation towards future loss of income. Though claimant sustained two major fractures to structural bones, apart from other injuries, it awarded only a meager amount of Rs.1,00,000/- towards 'pain and suffering'. Tribunal did not award any compensation towards loss of income during laid-up period. Compensation of Rs.20,000/- awarded towards 'food, nourishment and other incidental expenses' was on lower side. It was submitted that compensation of Rs.20,000/- was awarded towards 'future medical expenses' when cost of surgery for removal of implants as stated by PW.2 to be Rs.45,000/- was not justified. On above grounds, sought for allowing appeal.

8. On other hand, Sri D. Manjunath, learned counsel for respondent-insurer opposed appeal. It was submitted that Tribunal had considered entire facts and circumstances in proper perspective and awarded separate compensation and same did not warrant escalation.

9. Heard learned counsel and perused impugned judgment, award and record.



CNR: KAHC010534652016

10. This appeal is by claimant for enhancement of compensation as well as challenging finding on contributory negligence. Therefore, points that arise for consideration are:

(i) Whether Tribunal was justified in apportioning 25% contributory negligence against claimant?

(ii) Whether claimant is entitled for enhancement of compensation?

Reg. Point no.(i):

While passing impugned award, Tribunal has apportioned 25% contributory negligence against claimant on sole ground that he failed to produce driving licence. Hon'ble Supreme Court in ***Sudhir Kumar Rana***'s case (supra) has held non-availability of driving licence by itself would not imply rash and negligent driving and insurer would be liable to pay entire compensation. Moreover, in instant case, Police after investigation have filed charge sheet only against driver of bus. In view of above, point no.(i) is answered in *negative*.

Reg. Point no.(ii):

Claimant stated that he was earning Rs.10,000/- per month by running Ice-cream parlour. But failed to substantiate



CNR: KAHC010534652016

same with any specific material. Therefore, same is assessed nationally. Notional income for year 2013 is Rs.8,000/- per month. Normally, fractures take about three months to heal. Since claimant sustained multiple fractures on femur, it is found appropriate to award compensation by considering laid-up period as four months. Therefore, claimant would be entitled for **Rs.32,000/-** towards loss of income during laid-up period. Considering nature of injury/fracture sustained, compensation awarded towards pain and suffering at **Rs.1,00,000/-** cannot be stated to be grossly inadequate. Therefore no interference. Compensation of **Rs.1,40,300/-** towards medical expenses being in full reimbursement of bills produced also does not warrant interference. Considering small duration of in-patient period of six days, Tribunal awarded **Rs.20,000/-** towards food, nourishment, attendant and other incidental expenses would also be justified. Compensation of **Rs.1,50,000/-** awarded towards loss of amenities is not under challenge and is affirmed. On ground that fractures have healed and disability would not affect claimant in avocation, Tribunal has not awarded compensation towards future loss of income. On perusal of deposition of PW.2, who stated that



CNR: KAHC010534652016

fractures are united and refusal by Tribunal to award compensation would appear justified. Normally, for removal of implants **Rs.20,000/-** is awarded towards future medical expenses. Since same is already awarded, there is no scope for enhancement.

11. In view of above, following:

ORDER

- (i) Appeal is ***allowed in part***;
- (ii) Claimant is entitled for **Rs.4,62,300/-** with interest at 8% from date of claim petition till deposit;
- (iii) Insurer is directed to deposit balance compensation within six weeks.
- (iv) Upon deposit, entire compensation is ordered to be released in favour of claimant by RTGS.

**Sd/-
(RAVI V HOSMANI)
JUDGE**