



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCELLANEOUS FIRST APPEAL NO. 7196 OF 2016 (MV-I)

C/W

MFA CROSS OBJECTION NO. 132 OF 2019

IN MFA No. 7196/2016

BETWEEN:

GODWIN PRABHAKAR
AGED ABOUT 61 YEARS
S/O. LEAMVEL JATHAN
R/O. MANOHAR VILLA
JATHAN COMPOUND
BANNANJE
UDUPI TALUK AND
DISRICT - 576 201.

...APPELLANT

(BY SRI PAVANA CHANDRA SHETTY H., ADVOCATE)

AND:

1. K. DEEPA
AGED ABOUT 31 YEARS
W/O. D. DAYANANDA
R/O. SHRI BENAKA
KALIKAMBA NAGARA
AMBALPADY POST
UDUPI TALUK AND
DISTRICT - 576 201.
2. THE NEW INDIA
ASSURANCE CO. LTD.
DIVISIONAL MANAGER

Digitally signed by
NAGARATHNA
TEKAL
SUBBARAO

Location: HIGH
COURT OF
KARNATAKA



DIVISIONAL OFFICE
SHRI RAM ARCADE
NEAR HEAD POST OFFICE
UDUPI DISTRICT - 576 201.

...RESPONDENTS

(BY SRI M.P.SRIKANTH, ADVOCATE FOR R2;
R1 - SERVICE DISPENSED WITH VIDE ORDER DATED
09.07.2019)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER
SECTION 173(1) OF MOTOR VEHICLES ACT PRAYING TO SET
ASIDE THE JUDGMENT AND AWARD DATED 25.07.2016
PASSED IN MVC.NO.19/2015 ON THE FILE OF THE ADDITIONAL
MACT AND PRINCIPAL SENIOR CIVIL JUDGE, UDUPI.

IN MFA.CROB NO. 132/2019

BETWEEN:

M/S. NEW INDIA
ASSURANCE CO. LTD.
BRANCH MANAGER
BRANCH OFFICE
SHRI RAM ARCADE
NEAR HEAD OFFICE
UDUPI
REPRESENTING THE
REGIONAL MANAGER
BENGALURU.

...Cross Objector

(BY SRI SRIKANTA M.P., ADVOCATE)

AND:

1. GODWIN PRABHAKAR



S/O. LEAMVEL JATHAN
AGED ABOUT 61 YEARS
R/AT MANOHAR VILLA
JATHAN COMPOUND
BANNANJE
UDUPI TALUK - DISTRICT.

2. K. DEEPA
W/O. D. DAYANANDA
AGED ABOUT 31 YEARS
R/AT SHRIBENAKA
KALIKAMBA NAGARA
AMBALPADY POST
UDUPI TALUK AND DISTRICT.

...RESPONDENTS

(BY SRI PAVANA CHANDRA SHETTY H, ADVOCATE FOR R1;
R2 - NOTICE NOT ORDERED)

THIS MISCELLANEOUS FIRST APPEAL CROB. IS FILED
UNDER ORDER LXI RULE 22 OF CPC READ WITH SECTION
173(1) OF MOTOR VEHICLES ACTS PRAYING TO MODIFYING
THE JUDGMENT AND AWARD DATED 25.07.2016 PASSED IN
MVC NO.19/2015 ON THE FILE OF THE ADDITIONAL MACT
AND PRINCIPAL SENIOR CIVIL JUDGE, UDUPI

THESE MFA AND MFA.CROB, COMING ON FOR
ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN
AS UNDER:



CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

Heard learned counsel for appellant and learned counsel for cross objector-Insurance Company.

2. Being aggrieved by the judgment and award dated 25.07.2016 passed in MVC.No.19/2015 by the Additional MACT and Principal Senior Civil Judge, Udupi (for short, 'the Tribunal), the appellant is before this Court in MFA.No.7196/2016 seeking enhancement of the compensation, whereas respondent No.2-Insurance Company therein has approached this Court in MFA.Crob.No.132/2019.

3. Parties to the appeal shall be referred to as per their rank before the Tribunal.

4. The factual matrix of the case is that on 07.04.2014 at about 3.50 p.m., while the petitioner was standing on the northern side of the road, a stage carriage vehicle bearing registration No.KA-20-A-6048 came in a



rash and negligent manner and hit against the petitioner. As a result, he fell down and sustained injuries. Thereafter, he was admitted to KMC Hospital, Manipal and had suffered the following injuries.

- 1) Closed head injury.
- 2) Open fracture right great toe proximal phalanx.
- 3) 2nd and 3rd metatarsal fracture.

Hence, the petitioner filed a claim petition seeking compensation.

4.1. On service of notice, respondent No.1 did not appear before the Tribunal and she was placed *ex parte*. Respondent No.2-Insurance Company appeared and resisted the petition and contended that the claim made by the petitioner is highly exorbitant, imaginary and the driver of the offending vehicle did not possess a valid and effective driving licence at the time of the accident and as such, its liability should be absolved.



4.2. In order to substantiate his case, the petitioner got examined himself as PW.1 and the Doctors as PW.2 and PW.3 and got marked documents from Exs.P1 to P18. On the other hand, respondents did not adduce any evidence, either oral or documentary.

4.3. After hearing the arguments, the Tribunal awarded compensation of Rs.5,97,100/- with interest @ 6% p.a. under the following heads:

Sl. No.	Heads	Amount in Rs.
1.	Medical expenses	52,265-00
2.	Pain and sufferings	50,000-00
3.	Loss of future earning capacity	3,88,800-00
4.	Loss of income	36,000-00
5.	Loss of amenities and future unhappiness	40,000-00
6.	Shortening of life span	20,000-00
7.	Future medical expenses	10,000-00
	TOTAL	5,97,065-00
	Rounded off to	5,97,100-00

5. Being aggrieved by the same, the petitioner is before this Court seeking enhancement of compensation and respondent-Insurance Company has filed the cross objection by contending that the quantum of the



compensation under the head of future loss of income is on the higher side.

6. Learned counsel for appellant-petitioner contended that the petitioner is aged about 60 years, he was a mechanic and running a garage. It is also contended that the petitioner was earning more than Rs.25,000/- per month from his avocation. However, the Tribunal has not considered the said aspect despite Exs.P-14, P-15 and P16 (income tax return statements) have been produced.

6.1. Learned counsel for petitioner further contended that PW.2-Doctor has assessed the neurological disability due to the head injury at 50% as per Ex.P.11 and PW.3-Doctor has assessed the orthopedical disability to the extent of 12%. Therefore, the functional disability of the petitioner should have been taken on the higher side and the Tribunal erred in holding the same at 60%. Hence, he seeks enhancement of compensation.



7. *Per contra*, learned counsel for respondent-Insurance Company contended that the Tribunal erred in holding the disability at 60% and therefore, it is on the higher side. In that regard, he seeks reassessment of the compensation.

8. A careful perusal of the deposition of PW.1 would show that he had filed the income tax returns showing the income from the garage. However, a perusal of Exs.P.14, P.15 and P.16 would show that there is no such income from the garage. The entire income shown in these income tax returns is only in respect of the rent from the property owned by him. Therefore, the deposition to the extent that the income depicts the income from his profession cannot be accepted.

9. The Tribunal has taken the income of the petitioner at Rs.6,000/- per month. The accident had taken place in the year 2014. Except Ex.P13-Licence renewal receipt, there is nothing else on record to show



that the petitioner had income from his garage. Therefore, it has to be held that in the absence of any material or record, the notional income has to be considered. The guidelines issued by the Karnataka State Legal Services Authority for the purpose of settlement of disputes before the Lok Adalat prescribes the notional income of Rs.8,500/- p.m. for the year 2014. In umpteen number of judgments it is held by this Court that the guidelines issued by the Karnataka State Legal Services Authority are in general conformity with the wages fixed under the Minimum Wages Act and therefore, such guidelines are acceptable. In that view of the matter, the notional income of the petitioner is held to be Rs.8,500/- per month.

10. Coming to the question of disability, the testimony of PW.2 and PW.3 show that the petitioner had sustained neurological disability due to the head injury. PW.2-Doctor in his testimony before the Tribunal states that the petitioner was brought to the hospital in unconscious state and the treatment was conservative. He



also states that due to the head injury, he is unable to move the hand and there is difficulty in walking. But there is no difficulty to speak. In cross-examination, it is elicited that recovery due to neurological injuries is remote. PW.2 being a Doctor who treated the petitioner, there is no reason as to why his testimony should not be believed. He has issued the disability certificate as per Ex.P.11 and it shows the disability at 50%. It is trite law that when the petitioner is suffering from neurological disability and there cannot be reduction of one third or half. Ex.P.11 shows that there is left hemiparesis and he opines that the disability is 50%. Therefore, there cannot be any reduction in calculating the whole body disability and the argument by learned counsel for respondent-Insurance Company deserves to be repelled.

11. The Tribunal in the impugned judgment has calculated the total effect of the neurological disability and orthopaedic disability. PW.3 in his testimony has stated that there was fracture and malunion of the 2nd and 3rd



metatarsals and proximal phalanx of great toe of left foot, there is deformity of toes and foot with scarring, there is 20% loss of power in the left foot muscles, there is loss of movement at MTP and IP joint of medial 4 digits and it has resulted in a permanent disability of 12% of his left lower limb. Therefore, the Tribunal together considered the disability and held that it is 60%.

12. The petitioner is aged about 60 years and at such age, he has suffered the neurological disability of 50% and physical disability of 12%. However, the Tribunal considers the functional disability at 60% which cannot be faulted with. Obviously, the petitioner was a mechanic in a garage run by him and therefore, the assessment made by the Tribunal regarding the functional disability cannot be interfered with.

13. For the aforesaid reasons, the loss of income due to disability is calculated as (Rs.8,500/- x 12 x 9 x 60%)



Rs.5,50,800/- by adopting multiplier of '9' for the age of 60 years.

14. The Tribunal has held that loss of income during the laid-up period has to be calculated for six months and this Court does not find any reason to interfere with the same. Hence, the loss of income during laid up period is calculated as (Rs.8,500/- x 6) **Rs.51,000/-**.

15. The Tribunal has awarded a sum of ₹50,000/- towards pain and sufferings and the same needs to be enhanced to **Rs.60,000/-**.

16. The Tribunal has awarded a sum of Rs.20,000/- under the head of shortening of the life span, a head which is unknown to law. The Tribunal has not awarded any compensation under the head of conveyance expenses, nourishment, attendant charges etc. Therefore, a sum of Rs.20,000/- awarded under the head of shortening of the life span has to be considered as the



compensation under the head of conveyance expenses, nourishment, attendant charges etc.

17. The compensation awarded by the Tribunal towards medical expenses, loss of amenities and future unhappiness and future medical expenses do not require any interference. Hence, the appellant is entitled for total compensation of **Rs.7,84,065/-** under the following heads:

Sl. No.	Heads	Amount in Rs.
1.	Medical expenses	52,265-00
2.	Pain and sufferings	60,000-00
3.	Loss of future earning capacity	5,50,800-00
4.	Loss of income during laid up period	51,000-00
5.	Loss of amenities and future unhappiness	40,000-00
6.	Conveyance charges, nourishment and attendant charges etc.	20,000-00
7.	Future medical expenses	10,000-00
	TOTAL	7,84,065-00
	Less awarded by the Tribunal	5,97,100-00
	Enhancement	1,86,965-00

18. In view of the above, the appeal filed by the appellant-petitioner deserves to be allowed-in-part and the



cross objection filed by respondent No.2-insurance Company deserves to be dismissed. Hence, the following:

ORDER

- i. MFA.No.7196/2016 preferred by the appellant-petitioner is ***allowed-in-part***.
- ii. MFA.Crob.No.132/2019 preferred by the cross objector-Insurance Company is ***dismissed***.
- iii. The appellant-petitioner is entitled for a sum of ***Rs.1,86,965/-*** in addition to what has been awarded by the Tribunal along with interest @ 6% per annum from the date of petition till the date of deposit before the Tribunal.
- iv. Respondent No.2-Insurance Company is directed to deposit the compensation amount within a period of six weeks from the date of receipt of copy of this order.
- v. The amount in deposit before this Court be transmitted to the Tribunal.



NC: 2026:KHC:1417
MFA No. 7196 of 2016
C/W MFA.CROB No. 132 of 2019

vi. Rest of the order passed by the Tribunal remain
unaltered.

Sd/-
(C M JOSHI)
JUDGE

CPN
List No.: 1 Sl No.: 5