



CNR: KAHC010541382024

NC: 2026:KHC:51346
MFA No. 6184 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 6184/2024 (MV-I)

BETWEEN:

1. THE MANAGER
CHOLAMANDALAM MS GIC LTD.,
1ST FLOOR, 16-1-44, S.R. COMPLEX,
BENDLOORWELL, MANGALORE-570002.
NOW REP BY THE MANAGER,
CHOLAMANDALAM MS GIC LTD.,
GOLDEN HEIGHTS COMPLEX, 59TH C CROSS,
INDUSTRIAL SUPERB, 4TH M BLOCK,
RAJAJINAGAR, BANGALORE-10.

...APPELLANT

(BY SRI. PRADEEP B.,ADVOCATE)

AND:

1. GIRISH KALKUR
S/O. SHANKAR KALKUR, REDDY,
AGED ABOUT 52 YEARS,
R/AT HOUSE NO.2-221, TENKANIDIYLOOR,
THOTAM, UDUPI TALUK AND DISTRICT.
2. JAFAR SADIQ SHAEB,
S/O. MUNEER SHAEB,
AGE MAJOR,
R/O H.NO.5-85E, KAMPAN BRTTU,
UDYAVARA, UDUPI TALUK AND DISTRICT

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3. PRAVEEN NELSON CORDA,
NOW AGED ABOUT 43 YEARS,
S/O GABRIEL CORDU,
R/AT GABRIEL VILLA, SHIRVA ROAD,
KALATHURU KAPU,
UDUPI TALUK AND DISTRICT

...RESPONDENTS

(R1 & R2 ARE SERVED & UNREPRESENTED;

V/O DTD: 13.02.2025 NOTICE TO R3 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 13.07.2023 PASSED IN MVC NO.1104/2019 ON THE FILE OF THE PRL. SENIOR CIVIL JUDGE AND ADDITIONAL MACT, CJM, UDUPI, AWARDED COMPENSATION OF RS.6,71,000/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL DEPOSIT.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL JUDGMENT

1. This is the appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 (for short, 'M.V. Act') by the appellant/Insurance Company challenging the judgment and award dated 13.07.2023 passed in M.V.C.No.1104/2019 on the file of the Additional Motor Accidents Claims Tribunal & Principal Senior Civil Judge and CJM, Udupi (in short, 'the Tribunal').

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2. Parties would be referred with their ranks, as they were before the Tribunal for the sake of convenience and clarity.
3. The claimant has filed a claim petition before the Tribunal claiming compensation in respect of the injuries suffered by him in a road traffic accident occurred on 10.03.2018 at 02.30 p.m. involving the motorcycle bearing Reg.No.KA-20/K-9426 and the tempo bearing Reg.No.KA-10/D-5164 (in short 'the offending vehicle'). Due to the accident, he sustained grievous injuries and taken treatment in hospital and thus, claimed compensation under different heads.
4. After service of notice, respondent No.3/the Insurance Company appeared through its counsel and filed its objection statement, wherein it denied the averments made in the petition. It also denied the factum of accident, the rashness and negligence on the part of driver of the offending vehicle, etc.

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5. After framing issues, recording evidence and hearing arguments, the Tribunal concluded that the claimant is entitled for total compensation of Rs.6,71,000/- under following heads:

Sl.No.	Heads of compensation	Compensation amount (in Rs.)
1	Medical Expenses	1,90,000
2	Loss of earning (laid off period)	90,000
3	Future loss of earning	2,80,800
4	Future medical expenses	30,000
5	Pain and sufferings	50,000
6	Loss of amenities	20,000
7	Attendant charges and transportation	10,000
Total		6,70,800 rounded off 6,71,000

6. Challenging the quantum of compensation awarded by the Tribunal, the Insurance Company is before this court.
7. After service of notice, claimant remain absent and unrepresented.
8. Heard the arguments of learned counsel for appellant.

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9. Learned counsel for appellant Sri Pradeep B would submit that, only based on the IT returns of the year of accident submitted to the IT Department by the claimant after the accident and thus, the income of the claimant was taken at Rs.30,000/- by the Tribunal, which is improper. Except the income portion taken by the Tribunal, he is not opposing the judgment on other aspects.

10. Having heard arguments of learned counsel for the appellant and verifying the appeal papers, the point that arises for consideration is:

"Whether the income of the claimant taken by the Tribunal is exorbitant?"

11. Finding of this Court is in '**Affirmative**' for the following:



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REASONS

12. The facts established before the Tribunal are that, the claimant suffered accidental injuries due to the rash and negligent driving of driver of the offending tempo on 10.03.2018 at 02.30 p.m. near cross road near Shrish Bhat House, Kodavoor. The judgment of the Tribunal does not reveal the nature of injuries suffered by the claimant.
13. The learned counsel for the claimant has produced the copy of Medico-legal certificate. According to it, claimant has sustained the fracture of $\frac{1}{3}$ rd of right Femur shaft, inter trauchantric fracture of right leg, fracture of distal end of right Radius. The Tribunal, by placing reliance on the judgment of the Hon'ble Apex Court in ***United India Insurance Co. Ltd. versus Indiro Devi and others reported***¹ held that the IT returns of 1 year produced by the

¹ 2018(3) T.A.C.350 (SC)



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claimant is sufficient to decide the income of the claimant.

14. In that case, the deceased was an employee of a Company and getting salary of Rs.8,848/- per month. His IT returns for 2 years was furnished and there were variations between the 2 years. Even then the income of deceased for the assessment year of 2004-05, the previous year of the accident was considered. However, in the present case, the claimant has produced IT returns which he has furnished to the IT department only after the accident and not before the accident. Under these circumstances, he ought to have produced some materials to show that what was his income in the previous years to assess his income and also of the subsequent years to assess the functional disability. Hence, this Court holds that merely based on IT returns, the income of the claimant ought not to



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have been taken at Rs.30,000/- per month by the tribunal.

15. The claimant contended before the tribunal that, he was working as catering contractor and newspaper agent. He has furnished IT returns on 26.03.2018. However, the date of accident is 10.03.2018. The IT returns is submitted in Form-V at ITR-3 i.e., in respect of business or self-profession. This self-assessment tax of Rs.2,150/- was paid as per the IT returns. Said Rs.2,150/- includes interest of Rs.100/. This shows that, the claimant has filed the IT returns belatedly and thus, he has paid the interest for the tax.

16. These things probabalize the contention of the appellant that IT returns might have been submitted only with an intention to get higher compensation in the motor vehicle accident claim petition.

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17. It is to be noted here that respondent No.1-claimant has not produced any document to show that he was an agent of Udayavani Newspaper or doing catering contract business. Even then his evidence cannot be discarded in *toto* and his income cannot be taken only as per the notional income chart prepared by the KSLSA for the purpose of determining income for Lok-adalath. Hence, the income of the claimant is to be taken at Rs.15,000/- per month and not Rs.12,500/- per month as per the chart prepared by KSLSA or not Rs.30,000/- per month as per the IT Returns. Hence, the compensation awarded by the Tribunal is to be modified by taking the income of the claimant at Rs.15,000/- per month.
18. The Tribunal assessed the disability of the claimant at 6% to the whole body, his age was 48 years and thus, the relevant applicable multiplier is 13. Thus, the claimant is entitled for compensation towards the

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'loss of future earning capacity' would be
Rs.1,40,400/- (Rs.15,000 x 12 x 13 x 6%).

19. As far as the 'loss of income during the laid up period' is reduced to **Rs.45,000/-** in stead of Rs.90,000/- awarded by the Tribunal. As far as the 'future medical expenses', 'pain and suffering', 'loss of amenities', 'attendant charges and transport charges', the compensation awarded by the Tribunal is unaltered. Except these two modifications, the compensation awarded by the Tribunal is unaltered. Hence, the claimant would be entitled to modified compensation as under:

Sl.No.	Heads of compensation	Compensation amount (in Rs.)
1	Medical Expenses	1,90,000
2	Loss of earning (laid off period)	45,000
3	Future loss of earning	1,40,400
4	Future medical expenses	30,000
5	Pain and sufferings	50,000
6	Loss of amenities	20,000
7	Attendant charges and transportation	10,000
Total		4,85,400/-

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Compensation awarded by Tribunal	6,71,000
Reduced amount	1,85,600

20. Hence, this Court passes the following:

ORDER

- a. Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is **allowed in part**.
- b. Judgment and award dated 13.07.2023 passed in MVC No.1104/2019 on the file of the Principal Senior Civil Judge and Additional MACT, Udupi, is modified holding that the claimant is entitled for total compensation of **Rs.4,85,400/-** as against Rs.6,71,000/- awarded by the Tribunal.
- c. The compensation shall carry interest at 6% per annum from the date of petition till realization.
- d. The Insurance Company shall deposit the compensation amount with accrued interest before

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the Tribunal within a period of 8 weeks from the date of receipt of certified copy of this judgment.

e. Disbursement and deposit shall be as per the award of the Tribunal.

f. Draw modified award accordingly.

g. No Order as to costs.

h. Amount in deposit, if any, is ordered to be transmitted to the Tribunal forthwith. If there is excess compensation deposited, the Tribunal to refund it to the insurer on proper identification.

i. Registry to transmit the TCR to the Tribunal forthwith.

In view of disposal of the main matter, pending IAs, if any, does not survive for consideration.

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(GEETHA K.B.)
JUDGE

SPV,BSR
List No.: 1 Sl No.: 12