

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

MISCELLANEOUS FIRST APPEAL NO. 6724 OF 2017 (MV-I)

BETWEEN:

HARSHA SARPANGALA
S/O VENUGOPAL S
AGED ABOUT 22 YEARS
HARSHAKRIPA
BEERANTHABAIL
P.O. KASARGOD &
KASARGOD DISTRICT

...APPELLANT

(BY SRI: SHRIHARI K, ADVOCATE)

AND:

1. MRS. SHEELA S. BALLA
M/S. ANANTHA PADMANABHA MOTORS
HEBRI, KARKALA
UDUPI DISTRICT-576 101
2. RELIANCE GENERAL INSURANCE CO. LTD.,
RELIANCE CENTRE
19, WALCHAND HIRACHAND MARG
BASLLARD ESTATE
MUMBAI-400 001

...RESPONDENTS

(BY SMT: T N MALATHI, ADVOCATE FOR R2;
R1 IS SERVED AND UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 29.05.2017 PASSED IN MVC NO.1137/2015 ON THE FILE OF THE PRINCIPAL DISTRICT JUDGE, MACT, DAKSHINA KANNADA, MANGALURU, ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS MFA, HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 18.09.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **T.P.VIVEKANANDA J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE T.P.VIVEKANANDA

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE T.P.VIVEKANANDA)

This appeal is directed against the judgment and award dated 29.05.2017 in MVC No.1137 of 2015 passed by the Principal District Judge, MACT, Dakshina Kannada, Mangaluru, whereby, the Tribunal has awarded compensation of Rs.5,42,300/- for the injuries suffered by the appellant.

2. The appellant was the claimant before the Tribunal, wherein, he has sought for awarding of compensation for the bodily injuries sustained in the road traffic accident occurred on 29.12.2014. The occurrence of accident and the insurance coverage of the risk in respect of the offending vehicle is not in

dispute, since respondent No.2 insurer has not challenged the impugned judgment and award. Therefore, the issue for consideration in this appeal is - *"Whether the quantum of compensation awarded by the Tribunal is just and proper?"*

3. The case of the appellant/claimant before the Tribunal was that he has sustained 6 multiple injuries and was treated as inpatient from 29.12.2014 to 31.01.2015 and again admitted to hospital on 02.11.2016 and discharged on 03.11.2016. In order to prove the injuries sustained and disability suffered, the appellant has examined the doctor as PWs.3 and 4. Though PWs.3 and 4 have narrated in-detail in their examination-in-chief regarding the injuries sustained and the discomfort/difficulties faced by the appellant on account of the injuries sustained, however, the percentage of disability with reference to the whole body is not clearly stated.

4. On appreciation of the evidence of the appellant - PW1 and two doctors examined as PWs.3 and 4, the Tribunal has awarded total compensation of Rs.5,42,300/- under different heads, which are as follows:

Sl. No.	Particulars of Heads	Amount granted (Rs.)
1	Pain and Suffering	80,000/-
2	Medical Expenses	1,52,665/-
3	Attendant Charges	4,800/-
4	Food and Nourishment	4,800/-
5	Loss of Amenities	3,00,000/-
	Total	5,42,300/-

5. Being not satisfied with the compensation awarded by the Tribunal, the appellant is before this Court seeking enhancement of compensation.

6. We have heard the learned counsel for the appellant and respondent No.2 and perused the appeal papers, so also, the records of the Tribunal.

7. Learned counsel for the appellant submitted that the appellant was studying in 2nd year MBBS as on the date of accident. Due to the accident and the injuries suffered, he could not attend the classes and the examinations. It is also his submission that due to multiple injuries and hospitalization, he could not concentrate on his studies, which resulted in disturbance in his routine and learning process. Therefore, the

compensation assessed by the Tribunal is inadequate and insufficient. It is his further submission that the Tribunal has seriously erred in not awarding any compensation towards loss of earning on the ground that the appellant was a student as on the date of accident. Inasmuch as, if not under the head loss of future earning capacity, compensation should have been awarded as damages for the disabilities by taking note of the notional income and therefore, requests this Court to determine and award the compensation under the head loss of earning capacity/ damages for functional disability.

8. Learned counsel for the appellant has placed reliance on the following judgments:

(i) *The decision rendered by High Court of Judicature for Rajasthan at Jodhpur in **Indra and another Vs Jagdish Chandra and another**¹;*

(ii) *The decision rendered by Division Bench of this court in **The Branch Manager Vs Vivekanand and Others & connected matters**²;*

(iii) *The decision rendered by Hon'ble Supreme Court in **Bishnupriya Panda Vs Basanti Manjari Mohanty and another**³; and*

(iv) *The decision rendered by Division Bench of this court in **Royal Sundaram General***

¹ 2025 SCC Online Raj 2617

² MFA 201992/2019 & connected matters DD 18.03.2025

³ SLP (C) No.16447/2022 DD 04.08.2023

***Insurance Co. Ltd., Vs Sri N Ramachandrappa
and Others & connected matters⁴.***

and contends that even in respect of a student/non earning member, the compensation for the loss of earning capacity/disability shall be determined taking into consideration the notional income.

9. We have noticed that all the judgment cited above concerning the cases of death and the present case is of a injury.

10. *Per contra*, learned counsel for the respondent - insurer submitted that as observed by the Tribunal, there is no functional disability due to the injuries suffered by the appellant; the doctors examined by the appellant have not deposed anything about the whole body disability; it is not in dispute that the appellant/claimant has continued his education and completed the graduation and therefore, no grounds are made out for enhancement of compensation.

11. On hearing the parties and perusal of the records, the only point that arises for consideration is as to - "*Whether*

⁴ MFA 5123/2024 & connected matter DD 18.08.2026

the appellant is entitled for compensation under the head loss of future earning capacity? If so, to what extent?"

12. We see some force in the submission of the learned counsel for the insurer that on account of the injuries sustained, the appellant has not faced any difficulty in continuing his education and the doctors have not specifically assessed the disability of the appellant. Inasmuch as, the examination results and the attendance register is not produced. However, this Court cannot ignore the fact that the appellant has suffered multiple injuries as narrated in the examination-in-chief filed by PWs.2 to 4. The examination-in-chief discloses that there are certain deficiencies suffered by the appellant as a result of the injuries sustained, which has been assessed individually. It can be said that the injuries suffered by the appellant did not made any impact on the studies and future professional life. However, the total percentage of whole body disability is not assessed. On a overall consideration of the evidence of the doctors who have treated the appellant, it is not possible to conclude that the appellant has not suffered any disability/discomfort. Therefore, this Court proposes to consider disability of 10% to the whole body.

13. Insofar as the assessment of the income of non earning member/student is concerned, it is not the question of loss of earning that is to be compensated, it is the damages for the disability suffered. As held by the Hon'ble Apex Court as well as this Court that in the case of non earning member who suffered bodily injuries, the compensation is to be awarded for disability suffered considering the notional income. Considering the date of accident and the fact that the appellant was a medical student, this Court deems it appropriate to consider the notional income at Rs.8,500/- and apply the multiplier of '18'. Accordingly, the compensation for the disability is assessed at **Rs.1,83,600/-** (8,500 x 12 x 18 x 10%).

14. Considering the nature of injuries and discomfort suffered by the appellant, we find it just and proper to award another sum of **Rs.20,000/-** towards pain and suffering. The Tribunal has awarded Rs.4,800/- each towards attendant charges, food and nourishment. According to us, the said amount is inadequate and liable to be enhanced to a sum of **Rs.15,000/- (15,000/- (-) 9,600/- = Rs,5,400/-)**. Accordingly, the additional compensation to which the appellant is entitled to is as follows:

Sl. No.	Particulars of heads	MACT Award (Rs.)	Enhanced compensation (Rs.)	Total
1	Pain and Sufferings	80,000/-	20,000/-	1,00,000/-
2	Medical Expenses	1,52,665/-	-	1,52,665/-
3	Attendant Charges, Food & Nourishment	4,800 x 2 9,600/-	5,400/-	15,000/-
4	Loss of amenities	3,00,000/-	-	3,00,000/-
5	Disability/ Damages	-	1,83,600/-	1,83,600/-
	Total	5,42,265/-	2,09,000/-	7,51,265/-

15. In the result,

(i) Appeal is ***allowed in part.***

(ii) The judgment and award dated 29.05.2017 in MVC No.1137 of 2015 passed by the Principal District Judge, MACT, Dakshina Kannada, Mangaluru, is modified entitling the appellant for an enhanced compensation of **Rs.2,09,000/-** over and above the compensation already granted by the Tribunal.

(iii) The enhanced compensation shall carry interest at 6% per annum from the date of petition, till its realization.

Registry is directed to transmit the Trial Court records, forthwith, along with the copy of this judgment.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(T.P.VIVEKANANDA)
JUDGE**

BGN