



NC: 2026:KHC:33795-DB
MFA No. 8598 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF JULY, 2026

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO. 8598 OF 2018 (MV-I)

BETWEEN:

SRI. VIKAS @ RYAI VIKAS
S/O RYALI BRAHMAJI RAO,
RESIDING PERMANENTLY
AGED ABOUT 25 YEARS,
NOW AT D.NO.49-30-5,
MADHUNRANAGAR,
NEAR SAI BABA TEMPLE,
VISHAKAPATNAM (URBAN),
AKKAYYAPALEM-VISHAKAPATNAM,
ANDHRA PRADESH-530 016.

...APPELLANT

(BY SRI. GOPALA KRISHNA.N., ADVOCATE)

AND:

1. M/S. SBMS CONCRETES PRIVATE LTD.,
H.NO.140/1, 1ST FLOOR,
KODATHI AGARA, SARJAPUR ROAD,
BENGALURU-560 062.
REPRESENTED BY PROPRIETOR.
2. ROYAL SUNDRAM ALLIANCE
INSURANCE COMPANY LTD.,
REGIONAL OFFICE,
NO.186/Y, GROUND FLOOR,
RAGHAVENDRA COMPLEX,
OPP: BLUE DART COURIERS,
1ST CROSS, HOSUR MAIN ROAD,

Digitally signed by
SUMATHY KANNAN
Location: HIGH
COURT OF
KARNATAKA



WILSON GARDEN,
BENGALURU-560 027.
REPRESENTED BY ITS MANAGER.

...RESPONDENTS

(BY SRI. RAVI.S.SAMPRATHI., ADVOCATE FOR R2;
NOTICE TO R1-DISPENSED WITH V/O/DTD:01/06/2026)

THIS MFA FILED U/S 173(1) OF MV ACT, 1988, AGAINST THE JUDGMENT AND AWARD DATED 07.07.2018 PASSED IN MVC NO.453/2017 ON THE FILE OF THE 3RD ADDITIONAL JUDGE, MEMBER, MACT, COURT OF SMALL CAUSES, BENGALURU (SCCH-18), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present appeal seeks to challenge the judgment and award dated 07.07.2018, in MVC No.453/2017, passed by the III Additional Judge and Motor Accident Claims Tribunal, Court of Small Causes, Bangalore (hereinafter referred to as the 'Impugned Award'). By the



Impugned Award, the learned Tribunal has awarded compensation to the appellant/petitioner in a sum of Rs.37,84,501/-, along with interest at 9% per annum from the date of the petition till its realisation.

2. The challenge in the present appeal is by the appellant/petitioner seeking enhancement of the compensation.

3. We have heard the learned counsel for the appellant/petitioner and learned counsel for respondent No.2/ Insurance Company. Notice to respondent No.1/driver and owner has been dispensed with by an order dated 01.06.2021 passed by this Court.

4. The brief relevant facts of the case are that on 24.11.2016, at about 08.30 p.m., while the appellant/petitioner was riding his motorcycle bearing Reg.No.KA-03-JG-7407, a Ready Mixer Lorry bearing Reg.No.KA-51-B-4795, hit the appellant/petitioner from the rear side. Due to the accident, the appellant/petitioner fell down and



sustained grievous injuries. He was taken to Dr.Livin Memorial Hospital and thereafter referred to Sakra World Hospital, where he was admitted as an inpatient upto 10.01.2017.

5. The appellant/petitioner filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'MV Act') stating that he was a Software Engineer and earning a sum of Rs.60,000/- per month, however, due to the accident, he suffered from a loss of income and medicine expense.

5.1 In response to the Notice, the respondents appeared before the learned Tribunal and filed their respective written statements. The respondent No.1/driver/owner of the offending vehicle contended that the negligence was of the claimant. The respondent No.2/insurance company also challenged the negligence of the driver of the Concrete Mixture Lorry and in addition, the claim of the appellant/petitioner was disputed.



6. Based on the pleadings, the following issues were framed by the learned Tribunal:

"1. Whether the petitioner proves that he had sustained grievous injuries in an accident that was occurred due to rash and negligent driving of the driver of the lorry bearing No.KA-51-B-4795 on 24.11.2016 at about 8.30 p.m. in front of Bengaluru Dental Hospital, near Anjaneya temple, Haraluru Main Road, Bengaluru?

2. Whether the petitioner is entitled for compensation as prayed for? If so, at what rate? From whom?

3. What order or award?"

7. The appellant/petitioner examined himself as PW1 and the Doctor as PW2. In addition, he examined his employer as PW3, Medical Record Technicians as PW4 and PW5, as well as another Doctor as PW6. Several documents were placed on record, which included the FIR (Exhibit-P1), Mahazar (Exhibit-P3), Charge-Sheet (Exhibit-P7), Sketch (Exhibit-P4), IMV Report (Exhibit-P5). In addition, the Wound Certificate (Exhibit-P6), Discharge Summary (Exhibit-P8) and Medical Documents (Exhibits-P10 to P12) were also placed on record. Several other documents reflecting the educational qualification, as well as salary documents in respect of the employment of the



appellant/petitioner were also placed on record. In all, 39 documents were marked as Exhibits P1 to P39. No documents were placed on record or evidence produced on behalf of the respondents.

8. Based on the evidence placed on record, the learned Tribunal found that the negligence on the part of the offending lorry stood proved. In addition, after examining the evidence of the Doctors, the learned Tribunal found that injuries 1 to 6 were grievous in nature, while the rest of the injuries were simple injuries.

8.1 In addition, based on the evidence produced, , it found that the appellant/petitioner was drawing a salary between Rs.30,000/- and Rs.32,000/- per month and annual salary of Rs.3,43,008/- per annum. In addition, it was found while calculating the loss of income during laid-up period, the salary of the appellant/petitioner was taken as Rs.29,267/-. However, while calculating the salary for 'loss of dependency', the learned Tribunal has taken the



salary of the appellant/petitioner to be Rs.28,584/-. Further, it was held that the Doctors have assessed the disability of both limbs to be at 66% and whole-body at 33%. However, the learned Tribunal has reduced the disability to 22% and calculated the loss of future income as follows:

$$\text{Rs.28,584} \times 12 \times 18 \times 22\% = \text{Rs.13,58,311/-}$$

9. In addition, the compensation under loss of amenities was awarded at Rs.50,000/-, for disfiguration and loss of marriage prospects and pain and suffering as well. Accordingly, the following compensation was awarded by the learned Tribunal:

Sl.No.	Heads of Compensation	Amount (Rs.)
1	Pain and Suffering	70,000/-
2	Loss of income during laid up period and rest.	77,068/-
3	Medical Expenses	21,59,122/-
4	Loss of future earning	13,58,311/-
5	Loss of amenities, marriage prospects and disfiguration	50,000/-
6	Attendant, Nourishment and conveyance charges	50,000/-
7	Future Medication	20,000/-



	TOTAL	37,84,501/-
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9.1 Thus, a compensation amount of Rs.37,84,501/- along with interest at 9% per annum was awarded by the learned Tribunal.

10. The learned counsel for the appellant/petitioner has raised two challenges on the quantum of compensation awarded. Firstly, he submits that the salary of the appellant/petitioner was between Rs.30,000/- and Rs.32,000/- and in paragraph No.25 of the Impugned Order, it has been taken at Rs.29,267/- while in paragraph No.27, it has been taken at Rs.28,584/-. He submits that since for calculating the 'loss of income during laid off period' has been taken at Rs.29,267/-, while calculating the 'loss of dependency' the salary is taken as Rs.28,584/- Secondly, he contends that the amounts awarded under the non-pecuniary heads are inadequate. Lastly, he contends that the Doctor has assessed the disability to both the limbs at 66% and the whole-body disability at



33%, however, the learned Tribunal had wrongly reduced the disability to 22%.

11. The learned counsel for the respondent on the other hand contends that the amounts awarded by the learned Tribunal are in accordance with the settled principles of law.

12. The issues for determination that arises before this Court are:

- (i) Whether the compensation awarded requires to be increased including the compensation awarded on the account of loss of income due to disability?
- (ii) On what basis should the salary be calculated?
- (iii) Whether the learned Tribunal erred in reducing the disability to the whole-body from 33% to 22%?

13. The appellant/petitioner has placed on record, the detailed documents with respect to his accident and the injuries suffered. He has also placed on record the evidence of two Doctors, PW2 and PW6 in support of his



injuries. The Wound Certificate at Exhibit-P5 sets out the following injuries:

- "1. Left eye conjunctival haemorrhage.*
- 2. Deformity, tenderness over right arm with underlying fracture of mid-tunnar shaft fracture,*
- 3. Deformity, tenderness of pelvic with underlying comminuted unstable fracture of bilateral iliac and pelvic bones.*
- 4. Displaced fracture (Bennet's) of base of 1st metacarpal bone right side.*
- 5. Undisplaced fracture of 5th metacarpal bone on right side.*
- 6. Laceration, right sacro-iliac joint for fracture of sacral bone.*
- 7. Abrasion over right side of forehead.*
- 8. Laceration over right wrist.*
- 9. Abrasion over right wrist 5 cms x 2 cms."*

14. The evidence of the employer, PW3, reflects that the appellant/petitioner was drawing an annual salary of Rs.3,43,008/- and thus the monthly salary of the injured would be Rs.28,584/- and that the amount shall be adopted for the purposes of calculating 'loss of income due to laid-up period', as well as the 'loss of future earnings'. Since the injured was 24 years old, the multiplier of '18' was to be taken.

15. An examination of the evidence of PW-6, the Doctor reflects that it has been stated that the injuries of the



appellant/petitioner were such that he was required to take treatment from 16.01.2017 to 14.07.2017, almost six months. The relevant extract of examination-in-chief of Doctor, Dr.Anil Kumar, PW-6 is set out below:

*"2. I submit that Ryali Vikas @ R.Vikas aged about 25 years who was **sustained grievous crush injuries in Road Traffic Accident in Bengaluru on 24.11.2016, he had admitted in Bengaluru Sakra World Hospital, Bengaluru, due to his massive Road Traffic Accident with multiple injuries, he had operated by Dr.Chandrashekar HOD Orthopaedic.** As per his reference as taken physiotherapy treatment at Vishakapatnam. **As per his condition I made home visits to give physiotherapy treatment from 16.01.2017 to 14.07.2017, as per his condition I have provided daily six hours (3 hours morning and 3 hours in the evening) physiotherapy with my team continuously for a period of six months.**"*

[Emphasis Supplied]

16. In addition, PW-2, Dr.S.A.Somashekar, who examined the injured who was working as an Orthopedic Surgeon at Bowring and Lady Curzon Hospital (gave his deposition as PW2). After examining the petitioner, he found him to have suffered the injuries including Polytrauma, compound unstable pelvic, Morel-Lavelle lesion (Rt) thigh, (Rt) Humerus, Hypovolemic shock, multiple abrasions over face, upper limbs, abdomen and



lower limbs, (Rt) 1st and 5th metacarpal, (Lt) eye conjunctival hemorrhage and underwent various surgeries for his injuries.

16.1 In addition, after examining all his medical reports, including recent X-rays, the PW-6, Dr.S.A.Somashekar found his disability as 19% so far as concerns his mobility, disability of 40% to his upper right limb and disability including his components for both limbs and his pelvis and hips at 66%. The mobility component of the pelvis and hips was found at 22%. However, the total disability to both limbs and pelvis was assessed by the Doctor to be at 66%. The relevant portion of the evidence of PW-6, is set out below:

"Total disability of both limbs and pelvis:
$$\frac{48 + 40 (90 - 48)}{90} = 66\%$$

I put the total disability of both limbs at 66% and that of his whole body at 33%."

17. Thus, from an examination of the injuries, as well as the evidence placed, the whole-body disability was taken at 22%, which is contrary to the disability as set out by



the Doctors that is 33%. It is also not disputed by the respondent/insurance company that anything to the contrary has been evidenced in the cross-examination. Thus, the 'loss of future earnings' is re-calculated as follows:

$$\text{Rs.28,584/-} \times 12 \times 18 \times 33\% = \text{Rs.20,37,467/-}$$

18. Given the fact that continuous treatment was taken by the appellant/petitioner, this Court also deems it apposite to take laid up period as six months and award a sum of Rs.1,71,504/- (Rs.28,584 x 6) towards 'loss of income during laid-up period'.

19. In addition, so far as concerns the compensation awarded on non-pecuniary heads, such as pain and suffering, loss of amenities, marriage prospects, disfiguration, attendant and nourishment charges, given the factum of hospitalisation for almost 2 months, and the nature of the injuries involved, this Court deems it a



apposite to enhance these amounts in the following manner:

Sl.No.	Heads of Compensation	Amount (Rs.)
1	Pain and Suffering	1,00,000/-
2	Loss of income during laid up period and rest (Rs.28,584 x 6)	1,71,504/-
3	Medical Expenses	21,59,122/-
4	Loss of future earning (Rs.28,584/- x 12 x 18 x 33%)	20,37,467/-
5	Loss of amenities, marriage prospects and disfiguration	80,000/-
6	Attendant, Nourishment and conveyance charges	50,000/-
7	Future Medication	50,000/-
	TOTAL	46,48,093/-
	Less : Awarded by the Tribunal	37,84,501/-
	Enhanced Compensation	8,63,592/-

20. Hence, the appellant/petitioner is entitled to a total compensation of **Rs.46,48,093/-** along with interest at 9% per annum, from the date of petition till its realization.

21. Accordingly, this Court proceeds to pass the following:

ORDER

(i) The appeal is ***allowed in part;***



(ii) The Judgment and Award dated 07.07.2018, in MVC No.453/2017, passed by the III Additional Judge and Motor Accident Claims Tribunal, Court of Small Causes, Bangalore, is modified to Rs.46,48,093/-, enhancing the compensation by **Rs.8,63,592/-** along with interest at the rate of 9% per annum from the date of petition till realization.

(iii) The remaining portion of the Impugned Award of the learned Tribunal remains undisturbed.

(v) The respondent No.2/Insurance company is directed to pay the enhanced compensation with interest as awarded by the learned Tribunal within eight weeks from today.

(vi) On such deposit of compensation, the same shall be released in favour of the appellant/petitioner, on filing of an appropriate



application for withdrawal of the enhanced amount.

(vii) The Registry is directed to draw the modified Award accordingly.

(viii) The Registry is directed to transmit a copy of this judgment to the concerned Tribunal, along with its records.

(ix) No order as to costs.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

JJ / List No.: 1 Sl No.: 25