



CNR: KAHC010583732025

NC: 2026:KHC:50436
MFA No. 6611 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 6611 OF 2025

(MV-I)

BETWEEN:

VENKATESH K
S/O KRISHNAPPA
AGED ABOUT 37 YEARS
R/AT No.2/883, ANDEVANAPALLI VILLAGE
KRISHNAGIRI DISTRICT
TAMIL NADU.

...APPELLANT

(BY SRI KAILAS SHANKAR P S, ADVOCATE)

AND:

1. DHANASEKARAN D
S/O DAYALAN, MAJOR
R/AT No. 59, ERIKARAI STREET
NELVOY PULAVANPADI
TIRUMANNAMALAI
TAMIL NADU – 606 903.

2. THE MANAGER
SHRIRAM GEN. INSURANCE CO. LTD.,
No. 35, 3RD FLOOR AMBIKA PLAZA
1ST MAIN, 4TH N BLOCK
DR RAJKUMER ROAD, RAJAJINAGAR
BANGALORE – 560 010.

...RESPONDENTS

(BY SRI B C SEETHARAMA RAO, ADVOCATE FOR R2)

Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI
Location: HIGH
COURT OF
KARNATAKA



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NOTICE TO R1 IS SERVED AND UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:12.06.2025 PASSED IN MVC No.3602/2021 ON THE FILE OF THE X ADDITIONAL JUDGE, COURT OF SMALL CAUSES, MEMBER MACT, BENGALURU (SCCH-16), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed by the appellant -claimant seeking enhancement of compensation awarded in judgment and award dated 12.06.2025 passed in MVC No.3602/2021 by X Additional Judge, Court of Small Causes and MACT, Bengaluru.

2. The appellant made a claim petition praying to award compensation for the injuries sustained by him in a road traffic accident occurred on 20.02.2021 contending that the accident occurred due to rash and negligent driving of the driver of Canter vehicle bearing registration No.TN-25/AS-3315. The Tribunal after recording the



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evidence of the parties, appreciating the evidence assessed the compensation and awarded compensation under various heads as under:

1.	Loss of future income	Rs.2,88,000-00
2.	Medical expenses	Rs.3,46,496-00
3.	Pain and sufferings	Rs.50,000-00
4.	Attendant charges	Rs.11,000-00
5.	Food and nourishment	Rs.8,800-00
6.	Conveyance expenses	Rs.5,000-00
7.	Loss of income during treatment period	Rs.30,000-00
8.	Loss of amenities	Rs.30,000-00
9.	Future medical expenses	Rs.20,000-00
Total		Rs.7,89,296-00

3. The Tribunal also awarded interest at the rate of 6% per annum from the date of petition till realization and directed respondent No.2 -insurer to deposit the award amount with interest. The claimant seeking enhancement of compensation has filed the present appeal.

4. Heard learned counsel for the appellant and learned counsel for respondent No.2 -insurer.



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5. Learned counsel for appellant would contend that the Tribunal has fastened the liability on the owner to pay the compensation on the ground that there is no permit and driver of the insured vehicle was not holding driving licence as on the date of accident. He further submits that the claimant is third party and therefore, the Tribunal ought to have ordered pay and recover the compensation by the insurance company. He further submits that the doctor has stated that the disability is 39.1% to the right lower limb and the Tribunal ought to have taken 1/3rd of the same as disability to the whole body. The doctor has stated that fracture is non -united. Considering the fracture sustained, the claimant has to take rest at least for 03 months. Therefore, he is entitled to loss of income during laid up period for 03 months as against 02 months as taken by the Tribunal.

6. Learned counsel for respondent No.2 -insurer would contend that the doctor has stated that there is no loss of amenities and considering the same, the Tribunal



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has rightly taken disability at 10% and there are no grounds for enhancement.

7. Having heard learned counsels, the Court has perused impugned judgment, award and trial Court records.

8. The claimant is a third party. Vehicle was not having permit and the driver of the injured vehicle was not holding driving license as on the date of accident. Since the claimant is a third party, if there are any violations of policy conditions, the insurer has to pay the compensation assessed and recover the same from the owner of the vehicle. Considering the same, the Tribunal has erred in fastening the liability on the owner without passing pay and recovery order. Therefore, the respondent No.2 - insurer shall pay the compensation assessed and recover the same from the owner of the vehicle i.e., respondent No.1.



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9. P.W.2 is doctor, who has examined the claimant and assessed his disability and stated that the claimant is having 39.1% disability to the right lower limb. In cases where there is disability to the lower limb, then $1/3^{\text{rd}}$ of the same is to be taken as disability to the whole body. Therefore, disability is to be taken at 13% ($1/3^{\text{rd}}$ of 39.1%). The Tribunal has rightly taken notional income at Rs.15,000/- and applied multiplier '16'. In view of above, loss of future income is calculated as under:

$$\text{Rs.15,000/-} \times 12 \times 16 \times 13\% = \text{Rs.3,74,400/-}.$$

10. Considering the injuries sustained, the claimant has to take rest at least for 03 months and therefore, he is entitled to loss of income during laid up period in a sum of Rs.45,000/-. The claimant is not seeking any enhancement of compensation awarded by the Tribunal under other heads.

11. In view of the above, the claimant is entitled to enhancement of compensation under the following heads:



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Loss of income due to disability - Rs.86,400/-
(3,74,400-2,88,000)

Loss of income during laid up period -Rs.15,000/-
(45,000-30,000)

In view of the above, the claimant is entitled to enhanced compensation of Rs.1,01,400/- with interest @ 6% p.a. from the date of petition till realization. Respondent No.2-insurer is liable to pay the compensation assessed by the Tribunal and also enhanced compensation and recover the same from the owner of the vehicle/1st respondent by filing execution proceedings.

12. In view of the above, the following:

ORDER

- (I) The appeal is ***allowed in part.***
- (II) The appellant/claimant is entitled to enhanced compensation of Rs.1,01,400/- with interest @ 6% p.a. from the date of petition till realization.



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- (III) Respondent No.2/insurer shall deposit the compensation awarded by the Tribunal and also enhanced compensation awarded by this Court, before the Tribunal within a period of six weeks from this day.
- (IV) Respondent No.2/insurer is at liberty to recover the amount deposited by it from the owner of the insured vehicle i.e., respondent No.1 by initiating execution proceedings.
- (V) The order of Tribunal regarding deposit and release remain unaltered.
- (VI) The said deposit shall be kept in Karnataka Bank, City Civil Court Branch, Bengaluru.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

DSP/DKB
List No.: 1 Sl No.: 65
Ct.sm