



CNR: KAHC010454522025

NC: 2026:KHC:53607
MFA No. 5178 of 2025
C/W MFA No. 6795 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 5178 OF 2025 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 6795 OF 2024 (MV-I)

IN MFA No. 5178/2025

BETWEEN:

SRI. DHARMA,
S/O SWAMY
NOW AGED ABOUT 40 YEARS
RESIDING AT: HANGARAHALLI VILLAGE
ARAKERE HOBLI,
SRIRANGAPATNA TALUK
MANDYA DISTRICT - 571 4157.

...APPELLANT

(BY SRI. B. CHANDRASHEKHARAIHAH, ADVOCATE)

AND:

1. MR. RAMASWAMY K.P,
S/O PON MALAI
MAJOR
(AGED OF RESPONDENT NO.1
NOT KNOWN TO APPELLANT)
R/AT NO. 5/135, SHIVASHANARA PURAM,
PUTTUDORAI POST, ATTUR TALUK
SELAM DISTRICT - 636 001



Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA



CNR: KAHC010454522025

NC: 2026:KHC:53607
MFA No. 5178 of 2025
C/W MFA No. 6795 of 2024

2. THE BRANCH MANAGER
THE NATIONAL INSURANCE COMPANY LTD.,
ADICHUNCHANAGIRI ROAD
KUVEMPU NAGARA
MYSURU - 570 023.

...RESPONDENTS

(BY SRI. H.C. VRUSHABHENDRAIAH, ADVOCATE FOR R2;
VIDE ORDER DATED 30.07.2026, NOTICE TO R1
DISPENSED WITH)

MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 02.07.2024 PASSED IN MVC
NO.643/2017 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL
JUDGE, MACT, SRIRANGAPATNA, PARTLY ALLOWING THE
CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

IN MFA NO. 6795/2024

BETWEEN:

THE BRANCH MANAGER
THE NATIONAL INSURANCE CO. LTD.,
ADICHUNCHANAGIRI ROAD,
KUVEMPU NAGARA, MYSURU
NOW REPRESENTED BY ITS
REGIONAL MANAGER
THE NATIONAL INSURANCE CO. LTD.,
REGIONAL OFFICE NO.144, 2ND FLOOR,
SHUBHARAM COMPLEX, M.G. ROAD,
BANGALORE - 560 001.

...APPELLANT

(BY SRI. H.C. VRUSHABHENDRAIAH, ADVOCATE)

AND:

1. DHARMA

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA



CNR: KAHC010454522025

NC: 2026:KHC:53607
MFA No. 5178 of 2025
C/W MFA No. 6795 of 2024

S/O SWAMY,
AGED ABOUT 39 YEARS
R/AT HANGARAHALLI VILLAGE,
ARAKERE HOBLI, SRIRANGA PATNA TALUK,
MANDYA DISTRICT - 571 477

2. RAMASWAMY K.P.
S/O PON MALAI,
R/AT NO.5/135,
SHIVASHANKARA PURAM,
PUTTUDORAI POST, ATTUR TALUK,
SALAM DISTRICT - 636 001.

...RESPONDENTS

(BY SRI. B. CHANDRASHEKHARAIHAH, ADVOCATE FOR R1;
R2 RAMASWAMY K.P - SERVED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 02.07.2024 PASSED
IN MVC NO. 643/2017 ON THE FILE OF THE ADDITIONAL
SENIOR CIVIL JUDGE MACT, SRIRANGAPATNA,
AWARDING COMPENSATION OF RS. 13,37,809/- WITH
INTEREST AT 6 PERCENT P.A. FROM DATE OF PETITION
TILL PAYMENT OF THE ENTIRE AMOUNT.

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA



CNR: KAHC010454522025

NC: 2026:KHC:53607
MFA No. 5178 of 2025
C/W MFA No. 6795 of 2024

ORAL JUDGMENT

MFA No.5178/2025 is filed by the claimant seeking enhancement of the compensation and MFA No.6795/2024 is filed by the Insurer challenging the liability and quantum of compensation awarded by the Tribunal in the Judgment and Award dated 02.07.2024 passed in MVC No.643/2017 by Additional Senior Civil Judge and MACT, Srirangapatna.

2. The claimant made a claim petition praying to award compensation for the injuries sustained by him in a road traffic accident occurred on 05.11.2016, contending that the accident occurred due to the rash and negligent driving of the driver of the canter bearing registration No. TN-54-Y-3190. The Tribunal after recording evidence and appreciating the evidence on record has assessed the compensation and awarded total compensation under various heads as under:-

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA



CNR: KAHC010454522025

NC: 2026:KHC:53607
MFA No. 5178 of 2025
C/W MFA No. 6795 of 2024

1	Pain, shock and agony	40,000
2	Medical expenses	36,477
3	Food, diet, Nourishment, conveyance, and other incidental expenses	8,000
4	Loss of income during treatment period	7,904
5	Loss of income towards permanent disability	12,25,428
6	Disappointment and discomfort and loss of amenities	20,000
	Total	13,37,809

3. The Tribunal has also awarded interest at the rate of 6% per annum from the date of petition till realisation and directed the insurer to deposit the award amount with interest.

4. The insurer has challenged its liability and quantum of compensation. The claimant has sought enhancement of compensation awarded by the Tribunal.

5. Heard learned counsel for appellant/claimant and learned counsel for respondent/ Insurer.

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA



CNR: KAHC010454522025

NC: 2026:KHC:53607
MFA No. 5178 of 2025
C/W MFA No. 6795 of 2024

6. Learned counsel for insurer would contend that the accident occurred when the claimant was crossing the road and considering the same there is a contributory negligence on part of the claimant and that has not been considered by the Tribunal.

7. There was no permit as on the date of accident and fitness certificate has also expired. The compensation awarded on all heads are on higher side. The disability taken by the Tribunal at 76% to the whole body is not proper since claimant himself has given evidence and faced cross-examination. There are no basis for assessing a disability at 76% by CW-1 Doctor with this he prayed to allow the appeal filed by the insurer.

8. Learned counsel for claimant would contend that the Tribunal based on the evidence of the Doctor-CW.1 and the documents Ex.C-1 and Ex.C-2 has rightly taken the disability to the whole body at 76%. The national income fixed for the year 2016 is Rs.9,500/- and the same

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA



CNR: KAHC010454522025

NC: 2026:KHC:53607
MFA No. 5178 of 2025
C/W MFA No. 6795 of 2024

is to be taken as against Rs.7,904/- taken by the Tribunal. The competition awarded on all heads is on lower side. Since the disability is more than 20%, the claimant is entitled to future prospects at 40% with this he prayed to allow the appeal filed by the claimant.

9. Having heard learned counsels appearing for parties, the Court has perused the Judgment, Award and Trial Court Records.

10. The following points arise for consideration:

- i. Whether the Tribunal is justified in fastening the liability to pay the award amount on the insurer?.
- ii. Whether the compensation awarded by the tribunal is just and proper?

REASONS

11. **Point No.1:** Accident occurred on 05.11.2016 at 12.30 p.m. Ex.P-9 is a charge sheet and it is filed against the driver of the insured vehicle for rash and negligent driving. As per the said charge sheet, the accident

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA



CNR: KAHC010454522025

NC: 2026:KHC:53607
MFA No. 5178 of 2025
C/W MFA No. 6795 of 2024

occurred when the claimant was crossing the road. Ex.P-3 is the spot mahazar, wherein it is noted that the width of the road is 18 feet and accident occurred at a distance of 5 feet from the footpath.

12. In Ex.P-3-spot mahazar, there is no mention of any brake/tyre marks on the road. If the driver of the insured vehicle had seen suddenly claimant entering the road, he ought to have applied brake which will cause tyre mark on the road. Considering the said aspect, the entire negligence is on the part of the driver of the insured vehicle. The Tribunal has rightly held that the entire negligence is on part of the driver of the insured vehicle.

13. The learned counsel for insurer would contend that there was no valid permit for the insured vehicle to run the said vehicle in the State of Karnataka as its registration is in Tamil Nadu and fitness certificate was also expired. RW-1 has stated the same in his oral evidence. The insurer has not produced any document in

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA



CNR: KAHC010454522025

NC: 2026:KHC:53607
MFA No. 5178 of 2025
C/W MFA No. 6795 of 2024

support of the said contentions. Therefore considering the said aspect, the Tribunal has rightly held that there is no violation of policy conditions and the insurer is liable to pay the award amount. Accordingly, point No.1 is answered.

14. **Point No.2:** The accident occurred on 05.11.2016 and as on the date of accident, the claimant was aged 30 years. The notional income fixed for the year 2016 by the Karnataka State Legal Services Authority is Rs.9,500/- and the said income is to be taken as against Rs.7,904/- taken by the Tribunal. The tribunal has rightly applied multiplier '17' since the claimant is aged 30 years.

15. Ex.P-4 is the wound certificate wherein it is stated that the claimant has sustained two simple injuries. The said wound certificate is issued by Government Hospital, Srirangapatna immediately after the accident. The Doctor has been examined as CW-1 and he is a treated Doctor. Ex.P-9 is a discharge summary wherein it

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA



CNR: KAHC010454522025

NC: 2026:KHC:53607
MFA No. 5178 of 2025
C/W MFA No. 6795 of 2024

is mentioned that the claimant sustained spine injury and claimant has been admitted on 05.11.2016 and discharged on 12.11.2016 and he has taken treatment for a period of 8 days. CW.1-Doctor has stated that the claimant has sustained disability at 76% to the whole body and Tribunal based on the same has taken disability at 76%. CW.1-Doctor has not stated how he arrived at that disability at 76%. The said evidence of CW-1 is based on Psychological Assessment Report Ex.C1 issued by Dr.Trishala.D of JSS Medical College and Hospital, Mysuru. The said Ms. Trishala.D Doctor has not been examined. Ex.C2 is a disability assessment report and it is issued by CW-1 Doctor. In the said disability assessment report also there is no calculation of disability and how the disability at 76% is arrived at.

16. Considering the findings in Ex.P-9 and evidence of CW-1, the disability taken by the tribunal at 76% is not proper and the disability to be taken at 20%. since the

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA



CNR: KAHC010454522025

NC: 2026:KHC:53607
MFA No. 5178 of 2025
C/W MFA No. 6795 of 2024

disability is taken at 20%, the claimant is entitled to future prospects at 40%.

17. In view of the above, the claimant is entitled to loss of future income due to disability as under:-

$$9,500/- + 40\% (3,800) = 13,300 \times 12 \times 17 \times 20\% = \mathbf{5,42,640/-}$$

18. Considering the said injury sustained that is spine injury the compensation awarded towards pain and suffering by the Tribunal in a sum of Rs.40,000/- is enhanced to Rs.80,000/- and loss of amenities awarded in a sum of Rs.20,000/- is enhanced to Rs.50,000. The Tribunal has rightly awarded medical expenses and attendant charges.

19. The Tribunal has awarded loss of income during laid up period for one month taking the income at Rs.9,500/-. Considering the fact that the claimant has sustained spine injury, he has to take rest at least for 3

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA



CNR: KAHC010454522025

NC: 2026:KHC:53607
MFA No. 5178 of 2025
C/W MFA No. 6795 of 2024

months. Therefore, the claimant is entitled to loss of income during laid up period in the sum of Rs.28,500/- (9,500 x 3).

20. In view of the above, the claimant is entitled to total compensation under various heads as under:-

Sl. No.	Compensation Heads	Amount
1.	Pain and suffering	Rs. 80,000
2.	Loss of amenities	Rs. 50,000
3.	Medial expenses	Rs. 36,477
4.	Attendant, conveyance charges etc.,	Rs. 8,000
5.	Loss of income during laid up period	Rs. 28,500
6.	Loss of future income due to disability	Rs. 5,42,640
	Total	Rs. 7,45,617/-

21. The claimant is entitled to total compensation of Rs.7,45,617/- as against Rs.13,37,809/- as awarded by the Tribunal with interest at the rate of 6% per annum from the date of petition till realisation.

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA



CNR: KAHC010454522025

NC: 2026:KHC:53607
MFA No. 5178 of 2025
C/W MFA No. 6795 of 2024

22. The insurer is liable to pay the said compensation with interest. In view of the above, the following:-

ORDER

- i. Both appeals are allowed in part.
- ii. The claimant is entitled to total compensation of Rs.7,45,617/- as against Rs.13,37,809/- as awarded by the Tribunal with interest at the rate of 6% per annum from the date of petition till realisation.
- iii. The insurer shall deposit the said enhanced compensation with interest before the Tribunal within a period of 6 weeks from this day including the amount already deposited.
- iv. The claimant is not entitled to interest for the delay period of 262 days in filing the appeal as per order dated 30.07.2026 passed on I.A No.1/2025.
- v. The amount in deposit is ordered to be transmitted to the Tribunal.

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA



CNR: KAHC010454522025

NC: 2026:KHC:53607
MFA No. 5178 of 2025
C/W MFA No. 6795 of 2024

vi. Office is directed to send back the Trial Court
Records.

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA

(SHIVASHANKAR AMARANNAVAR)
JUDGE

VS
List No.: 1 Sl No.: 39