



CNR: KAHC010597272024

NC: 2026:KHC:37441
MFA No. 6943 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 6943 OF 2024

(MV-I)

BETWEEN:

NARASIMHA H M
AGED ABOUT 47 YEARS
S/O M MARIGA
R/O No. 2870
HOSABADAVANE
ULUGULI, SUNTICOPPA POST
SOMWARPET, TALUK
KODAGU DISTRICT - 571 236.

...APPELLANT

(BY SMT. SUMA K, ADVOCATE)

AND:

Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI

Location: HIGH
COURT OF
KARNATAKA

1. RATHEESH V
S/O VIJAYAN
MAJOR
R/O No. 2/326 (4/6) RATHEESH
BHAVAN, PUNNAKADU
BALARAMAPURAM, MALAPURAM
KERALA STATE - 686 301.
2. THE MANAGER
NEW INDIA ASSURANCE CO LTD.,
1ST FLOOR, LAKSHMI COMPLEX



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COLLEGE ROAD, NEAR SBI
MADIKERI TOWN - 571 201.

...RESPONDENTS

(BY SRI E I SANMATHI, ADVOCATE FOR R2
R1- RATHEESH V SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:17.03.2023
PASSED IN MVC No.130/2021 ON THE FILE OF THE SENIOR
CIVIL JUDGE AND MEMBER, MACT, MADIKERI, PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR ADMISSION 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 the judgment
and award dated 17.03.2023 passed in MVC No.130/2021
by the Senior Civil Judge and Member, MACT, Madikeri.

2. Even though the appeal is listed today for
admission, it is taken up for disposal with the consent of
learned counsel for appellant and learned counsel for
respondent No.2/insurer.



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3. The appellant made a claim petition praying to award compensation for the injuries sustained by him in a road traffic accident occurred on 08.11.2020 contending that the accident occurred due to rash and negligent driving of the driver of Crane bearing Registration Number KL-57-E-1554. The Tribunal after recording the evidence, appreciated the evidence, assessed the compensation and awarded compensation under various heads as under:

Sl.No.	Heads	Amount in (Rs.)
01.	Medical expenses	1,80,156/-
02.	Transportation charges	30,000/-
03.	Loss of future income	4,41,090/-
04.	Loss of income during laid up period	30,000/-
05.	Attendant charges	30,000/-
06.	Pain and suffering	10,000/-
07.	Loss of amenities	10,000/-
	Total	7,31,246/-

4. The Tribunal also awarded interest @ 6% p.a. 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.



5. Heard learned counsel for the appellant and learned counsel for respondent.

6. Learned counsel for appellant would contend that claimant has sustained crush injury of his right foot with avulsion of sole and dislocation of metatarsphalangeal 1 to 4th digit of right foot. PW.2 – Doctor who examined him has assessed his disability at 45% of right lower limb. The claimant is a labourer doing coolie work and he cannot stand and lift heavy articles and because of the injury there is amputation of one toe of his right leg and K-wire is fixed for the other toes. Considering the said aspect the disability to the whole body taken by the Tribunal at 15% is not proper and the same should be taken at 50%. Considering the disability the claimant is entitled to future prospect. The compensation awarded for pain and suffering, loss of amenities, loss of income during laid up period are on lower side. The claimant has been admitted in the hospital for 15 days. With this she prayed for enhancement of compensation.



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7. Learned counsel for respondent No.2/insurer would contend that Doctor who has examined the claimant has assessed his disability at 45% of right lower limb and Tribunal has rightly taken $1/3^{\text{rd}}$ of the same as disability of the whole body i.e. 15%. The Tribunal has rightly awarded compensation on all other heads and there are no grounds for enhancement.

8. Having heard the learned counsels, the Court has perused the judgment and award.

9. Ex.P5 is the wound certificate wherein the injury sustained by the claimant has been described as crush injury of right foot with avulsion of sole and dislocation of metatarsphalangeal 1 to 4 digit of right foot. PW.2 - Doctor who has examined the claimant has assessed the disability at 45% of right lower limb. The claimant is a labourer. The Tribunal has taken disability to the whole body at 15% which is $1/3^{\text{rd}}$ of disability of right lower limb.



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10. PW.2 has stated that the fingers of his right toe were dislocated and the remaining four toes on the right foot were broken and found the outer layer of the skin was peeled. He has further stated that K-Wire has been inserted to the toes and the claimant cannot walk and sit as earlier. Considering the fact that the claimant is a labourer who has to do work which includes lifting of heavy weight articles, the functional disability is to be taken into consideration. Considering the avocation of the claimant, the functional disability is taken at 25%. Since the disability taken is 25%, the claimant is entitled to future prospects at 25% since he is aged 47 years. The Tribunal has rightly applied multiplier '13'. In view of the above, loss of future income is calculated as under:

$\text{Rs.}14,500 + 25\%(3,625) = \text{Rs.}18,125/-$

$\text{Rs.}18,125 \times 12 \times 13 \times 25\% = \text{Rs.}7,06,875/-$

11. Considering the injuries sustained the compensation awarded for pain and suffering in a sum of



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Rs.10,000/- requires to be enhanced to Rs.1,00,000/- and loss of amenities awarded in a sum of Rs.10,000/- is required to be enhanced to Rs.50,000/-. The claimant has been admitted in the hospital for 15 days and considering the injuries, he has to take rest for three months and therefore, entitled to loss of income during laid up period in a sum of Rs.43,500/- (Rs.14,500 x 3 months). The Tribunal has rightly awarded transportation charges, attendant charges and medical expenses. In view of the above, the claimant is entitled to compensation under various heads as under:

Sl.No.	Heads	Amount in (Rs.)
01.	Medical expenses	1,80,156/-
02.	Transportation charges	30,000/-
03.	Loss of future income	7,06,875/-
04.	Loss of income during laid up period	43,500/-
05.	Attendant charges	30,000/-
06.	Pain and suffering	1,00,000/-
07.	Loss of amenities	50,000/-
	Total	11,40,531/-

12. Considering the above aspects, the claimant is entitled to total compensation of Rs.11,40,531/- as



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against Rs.7,31,246/- awarded by the Tribunal with interest @ 6% p.a. from the date of petition till realization. Consequently, the claimant is entitled to enhanced compensation of Rs.4,09,285/- with interest @ 6% p.a. from the date of petition till realization. Respondent No.2/insurer is liable to pay the said enhanced compensation with interest.

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.4,09,285/- with interest @ 6% p.a. from the date of petition till realization.
- iii) Respondent No.2/insurer shall deposit the enhanced amount with interest within a period of six weeks from this day, failing which, it is liable to pay interest @ 9% p.a. from this day till payment of enhanced compensation amount.



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- iv) Appellant is entitled to release of entire enhanced compensation.
- v) Appellant is not entitled to interest for delay period of 489 days in filing the appeal.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

DKB
List No.: 1 Sl No.: 49
Ct.sm