



CNR: KAHC010627332023

NC: 2026:KHC:46165
MFA No. 8009 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO.8009 OF 2023(MV-I)

BETWEEN:

SRI. SHASHIDHAR O.K.,
S/O. LATE KUMARASWAMY,
AGED ABOUT 31 YEARS,
R/O. OORUKERE VILLAGE AT POST,
KASABA HOBLI, TUMAKURU TQ.,
TUMAKURU DISTRICT - 572 106.

...APPELLANT

(BY SRI. V.B. SIDDARAMAIAH, ADVOCATE)

AND:

1. THE NEW INDIA ASSURANCE CO. LTD.,
BRANCH OFFICE: 1ST FLOOR,
OPP. RAMAMANDIRA,
G.K. ROAD, K.R. EXTENSION,
TUMAKURU - 572 101.
REPT BY ITS BRANCH MANAGER.

2. SRI. D.R. BASAVARAJAPPA,
FATHER NAME NOT KNOWN
TO APPELLANT,
AGED ABOUT 49 YEARS,
R/O B NO. 1487, 56TH 'E' MAIN,
'E' BLOCK 2ND STAGE,
RAJAJINAGAR,
BENGALURU - 560 010.

...RESPONDENTS

(BY SRI. A.M. VENKATESH., ADVOCATE FOR R1,
VIDE ORDER DATED 17.07.2026, NOTICE TO R2 IS
DISPENSED WITH)

Digitally
signed by
REKHA R
Location:
High Court
of Karnataka



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THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED:21.04.2022 PASSED IN MVC NO.397/2019 ON THE FILE OF THE II ADDITIONAL DISTRICT JUDGE AND MACT, TUMAKURU, 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 T.M.NADAF

ORAL JUDGMENT

This appeal by the claimant seeking enhancement of compensation arising out of judgment and award dated 21.04.2022 in MVC.No.397/2019 passed by II Additional District Judge and Motor Accident Claims Tribunal, Tumakuru¹.

2. The parties are referred to as per their ranking before the Tribunal.

3. Facts germane to file the present appeal are as under:

¹ 'Tribunal' for short



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3.1. In an unfortunate accident occurred on 12.06.2016, the claimant who was proceeding on his Honda Shine Motor Bike bearing Reg.No.KA-06-EM-6849, met with an accident by actionable rash and negligent driving of Maruthi Omini bearing Reg.No.KA-01-M-4275 by its driver and suffered severe injuries to the head, resulting in 42.77% disability and also fracture of ulnar bone. He was hospitalized for a period of 41 days and also taken as an outpatient treatment on 7 different occasions. He has spent totally a sum of Rs.5,13,000/- towards medical expenses.

3.2. The Doctor-Neurologist who has been examined, has stated the present status of the claimant and stated the disability suffered at 41.77%. The Tribunal considered the income at Rs.8,000/- p.m., for the year 2016 and after considering the disability at 41.77% awarded total compensation of Rs.13,48,480/-, it is this judgment and award passed by the Tribunal is called in question in this appeal.



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4. Heard Sri.V.B.Siddaramaiah, learned counsel appearing for the appellant and Sri.A.M.Venkatesh, learned counsel appearing for respondent No.1. Vide order dated 17.07.2026, notice to respondent No.2 is dispensed with.

5. Sri.V.B.Siddaramaiah, with all vehemence submits that the doctor has stated the disability at 41.77%. The Tribunal ought to have considered the same at 42% instead of 41.77%. The accident was of the year 2016. The Tribunal ought to have considered the income at Rs.9,500/- per month, the income fixed under the chart prepared by the KSLSA for settling the dispute before the Lok Adalat.

6. He further submits that in view of settled position of law, when the disability is more than 20%, the claimant is also entitled for adding future prospectus to the existing income. He further submits that, in view of the fractures suffered, the medical treatment undergone,



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the expenses incurred and the period of inpatient, the compensation awarded under the other heads, except medical expenses, are all meager and requires consideration.

7. He further submits that the Tribunal has not considered to award any compensation under the head of future medical expenses and sought to allow the appeal and enhance the compensation.

8. Per contra, Sri. A.M.Venkatesh, learned counsel argued in support of the judgment passed by the Tribunal, that, the Tribunal after considering the entire materials placed on record, awarded appropriate compensation and sought to dismiss the appeal.

9. Having considered the rival submissions, this Court has perused entire appeal papers as well as Trial Court record.

10. It is not in dispute that the claimant has sustained a head injury, which has resulted in disability to



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the extent of 41.77%, as deposed by the doctor. In that view of the matter, the marginal enhancement of 0.23% would bring the disability to 42%. The said enhancement is not seriously disputed by the other side.

11. Though it was contented that the claimant was pursuing his M.Com course as on the date of accident, however in the absence of any material document to that effect, this Court is of the opinion that the income fixed under the chart for the year 2016 i.e., Rs.9,500/- would be appropriate and the same is considered.

12. In view of settled position of law by the Hon'ble Supreme Court on adding of future prospectus in respect of disability over and above 20%, as the same would render the claimant to lose his earning capacity. In that view of the matter, this Court must consider with respect to the age of claimant, i.e., 27 years as on the date of accident, an addition of 40% towards future prospectus to the existing income.



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13. A perusal of award passed by the Tribunal, except medical expenses, when compared to the injuries suffered disability resulted, medical expenses incurred and in-patient period, and treatment undergone by the claimant, the compensation awarded does not appear to be fitting with the principle of just compensation. Hence, the compensation awarded by the Tribunal requires enhancement.

14. Accordingly, this Court proceeds to reassess the compensation which is as under:

Sl. No.	Heads	Compensation awarded by the Tribunal In Rs.	By this Court In Rs.
1.	Medical expenses	5,13,000-00	5,13,000-00
2.	Loss of earnings during treatment period	32,000-00	57,000-00 (Rs.9500x6)
3.	Loss of future earning due to permanent disability	7,08,480-00	11,39,544-00 (Rs.9,500+40%x12x17x42%)
4.	Pain and Suffering	25,000-00	50,000-00
5.	Loss of amenities	50,000-00	75,000-00
6.	Attendant charges, conveyance, food and nourishment charges.	20,000-00	50,000-00
7.	Future medical expenses	-	75,000-00
	TOTAL	13,48,480-00	19,59,544-00



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15. The claimant is entitled for enhanced compensation of Rs.6,11,064/- rounded off to **Rs.6,12,000/-**, which shall carry interest at rate of 6% per annum from the date of petition till realisation.

16. For the foregoing reasons this Court proceeds to pass the following:

ORDER

- i. Appeal is ***allowed in part.***
- ii. The judgment and award dated 21.04.2022 in MVC.No.397/2019 passed by II Additional District Judge and Motor Accident Claims Tribunal, Tumakuru, is modified and enhanced to **Rs.6,12,000/-**, which shall carry interest at the rate of 6% per annum from the date of petition till realisation.
- iii. The respondent No.1-Insurer shall deposit entire enhanced compensation along with interest stated supra within 6 weeks from the date of receipt of copy of this order.



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- iv. Upon deposit, 50% shall be released in favour of the claimant on proper identification. Balance 50% shall be deposited in any interest bearing FDR with any nationalized bank for a period of 5 years, renewable by another 3 years.
- v. Bank shall not permit any loan on the fixed deposit, without there being any order by the Tribunal/Court, while granting permission to receive interest quarterly.
- vi. The Registry is directed to transmit the trial Court record, to the concerned Tribunal forthwith without causing any delay.
- vii. No order as to costs.

Sd/-
(T.M.NADAF)
JUDGE

PK
List No.: 1 Sl No.: 10
ct-vn