



CNR: KAHC010638442023

NC: 2026:KHC:43901
MFA No. 8041 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF AUGUST, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO.8041 OF 2023(MV-I)

BETWEEN:

KRISHNAPPA,
S/O RAMAPPA,
AGED ABOUT 44 YEARS,
OCC FLOWER MERCHANT,
R/O BHARAMASAMUDRA VILLAGE,
JAGALUR TALUK,
DAVANAGERE DISTRICT - 577 528.

...APPELLANT

(BY SRI. R. SHASHIDHARA, ADVOCATE)

AND:

1. AJJAIAH T.,
S/O THIMMANNA,
AGED ABOUT 37 YEARS,
DRIVER CUM OWNER,
MARUTHI CAR BEARING NO.KA-28/N-3590,
R/O YALLAMMA STREET,
KHANA HOSAHALLI VILLAGE,
KUDLIGI TALUK,
BELLARI DISTRICT - 583 135.

2. THE LEGAL MANAGER,
TATA AIG GENERAL INS CO LTD.,
HALMARK BUILDING,
3RD DESAI CROSS,
(BESIDE INDUSTRIAL BANK),
HUBBALLI - 580 029)

...RESPONDENTS

(BY SMT. T.N. MALATHI, ADVOCATE FOR
SRI. MURALIDHAR NAGAVAR, ADVOCATE FOR R2,
VIDE ORDER DATED 28.07.2026 NOTICE TO R1 IS
DISPENSED WITH)



CNR: KAHC010638442023

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,1988, AGAINST THE JUDGMENT AND AWARD DATED:28.06.2023 PASSED IN MVC NO.728/2019 ON THE FILE OF THE SENIOR CIVIL JUDGE AND ADDITIONAL MACT-V, ITINERARY COURT, JAGALURU, IN THE COURT OF I ADDITIONAL SENIOR CIVIL JUDGE 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 for enhancement of compensation arising out of judgment and award dated 28.06.2023 in MVC.No.728/2019 passed by I Additional Senior Civil Judge and Additional MACT-V, Davangere.¹

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

¹ 'Tribunal' for short



CNR: KAHC010638442023

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MFA No. 8041 of 2023

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

3.1 In an accident occurred on 28.09.2019 at about 07.30 a.m., the claimant who was proceeding on his TVS XL Motor Cycle bearing No.KA-06/V-5313 from Bangarakkanagudda towards Chikkamalanahole Village when reached near Bamgarakkamagudda Village, a Maruti car bearing Reg. No. KA-28/3590 came from Jagalur side to proceed towards Khana Hoshalli, dashed against the motorcycle. Due to the impact, he has suffered fracture of clavicle and both shoulders AP and right forearm with wrist and elbow AP. The Doctor has stated that satisfactory union of radius fracture with implant in situ and union of right side ribs and malunion of right lateral end clavicle fracture with reduced acromioclavicular joint and secondary osteoarthritic changes in shoulder joint. The doctor assessed the limb disability at 25% and 1/3rd of the same at 8% to the whole body.



CNR: KAHC010638442023

NC: 2026:KHC:43901
MFA No. 8041 of 2023

3.2 The Tribunal after considering the evidence awarded total compensation of Rs.2,29,630/- considering the disability at 8% and the income at Rs.14,000/- p.m.

4. Heard Sri.R.Shashidhara, learned counsel appearing for the appellant, Smt.T.M.Malathi, learned counsel appearing for Sri.Muralidhar Negavar, learned counsel for respondent No.2. Vide order dated 28.07.2026, notice to respondent No.1 is dispensed with.

5. Sri. Shashidhara, with all vehemence submits that the injuries resulting in disability, the claimant who was a floweriest suffers more on earning capacity. The Tribunal has failed to consider this aspect of the matter and awarded meager compensation under all the heads, which requires re-assessment and sought to allow the appeal.

6. Smt.Malathi, with all vehemence submits that the Tribunal in the absence of any evidence and avocation, properly considered the income at Rs.14,000/- p.m., and



CNR: KAHC010638442023

NC: 2026:KHC:43901
MFA No. 8041 of 2023

awarded appropriate compensation, which does not call for any interference at the hands of this Court and sought to dismiss the appeal.

7. Having considered the rival submissions, this Court has perused the entire appeal appeals as well as trial Court records.

8. The evidence, of the doctor of which is reduced in the judgment at page No.9, states that on clinical examination the doctor has found that 'there was wasting of right arm and fore arm muscles, range of motion at right shoulder slightly painfully limited, healed surgical scar over proximal radius, radial plate with screws papable, reduced muscle strength in right forearm flexor and wrist extensor muscles. The Supination and pronation movements are restricted and on clinical examination found 25% disability to right arm'.

9. Considering the fact that the claimant was a floweriest, which is not seriously disputed by the other



CNR: KAHC010638442023

NC: 2026:KHC:43901
MFA No. 8041 of 2023

side, this Court is of the opinion that, if the disability is considered at 10% instead of 8%, the same would meet the ends of justice. Having gone through the award passed under each head, the same requires re-consideration as the compensation awarded under each head appears to be inadequate when compared to injuries, the treatment taken, inpatient period and medical expenses incurred.

10. Accordingly, this Court proceeds to re-assess the compensation, which is as under:

Sl. No.	Heads	Compensation awarded by the Tribunal In Rs.	By this Court In Rs.
1.	Loss of future earning capacity	1,74,720-00	2,18,400-00 (Rs.14,000x12x13x10%)
2.	Pain and sufferings	15,000-00	50,000-00
3.	Loss of amenities	15,000-00	50,000-00
4.	Medical Expenses	14,910-00	14,910-00
5.	Nourishment conveyance	10,000-00	20,000-00
6.	Loss of income during laid up period	-	56,000-00 (Rs.14,000x4)
7.	Future Medical expenses	-	25,000-00
	TOTAL	2,29,630-00	4,34,310-00

11. Accordingly, the claimant is entitled for an enhanced compensation of **Rs.2,04,680/-** (Rs.4,34,310



CNR: KAHC010638442023

- Rs.2,29,630) rounded off to **Rs.2,05,000/-** which shall carry interest at the rate of 6% per annum from date of petition till realisation.

12. For the foregoing reasons, this Court proceeded to pass the following:

ORDER

- i. The appeal is ***allowed in part.***
- ii. The judgment and award dated 28.06.2023 in MVC.No.5128/2019 passed by I Additional Senior Civil Judge and Additional MACT-V, Davangere, by enhancing the compensation by another sum of **Rs.2,05,000/-** along with interest at the rate of 6% per annum from the date of petition till realisation.
- iii. The respondent No.2/Insurer shall deposit the entire enhanced compensation along with the interest stated supra before the concerned Tribunal within 6 weeks from the date of receipt of copy of this order.



CNR: KAHC010638442023

NC: 2026:KHC:43901
MFA No. 8041 of 2023

- iv. Upon deposit, entire amount shall be released in favour of claimant on proper identification.
- v. No order as to costs.
- vi. It is noticed that the Tribunal has passed an order of pay and recovery, which is not in dispute by both the parties. In that view of the matter, the pay and recovery ordered by the Tribunal is retained. The Insurer is directed to pay the entire enhanced compensation along with interest primarily with liberty to recover the same from the Insurer.

Sd/-
(T.M.NADAF)
JUDGE

PK
List No.: 1 Sl No.: 20
ct-vn