



CNR: KAHC010653342023

NC: 2026:KHC:44813
MFA No. 8253 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF AUGUST, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO.8253 OF 2023(MV-I)

BETWEEN:

SMT. MAMATHA M,
W/O VAGEESH H.B,
OCC BEAUTY PARLOR WORK,
AGE ABOUT 39 YEARS,
R/O DOOR NO 725/2,
NEAR KAVERAMMA SCHOOL,
K.B. EXTENSION,
DAVANAGERE – 577 002.

...APPELLANT

(BY SRI. ARAVIND.H., ADVOCATE)

AND:

Digitally
signed by
REKHA R
Location:
High Court
of
Karnataka

1. SRI. PRABHUDEV K.S.,
S/O SHIVAKUMAR K.G,
AGED ABOUT 49 YEARS,
OWNER CUM DRIVER CAR,
BEARING NO KA-17/M.A-1522,
KATTALAGERE VILLAGE,
CHANNAGIRI TALUK,
DAVANAGERE DISTRICT – 577 219.
2. THE MANAGER,
THE ORIENTAL INSURANCE CO., LTD,
THE BRANCH OFFICE,
NO 289/6, A.M. ARCADE,



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NEAR VIDYARTHIBHAVAN,
C.G. HOSPITAL ROAD,
DAVANAGERE – 577 001.

...RESPONDENTS

(BY SRI. VENKATESHWARA RAO K., ADVOCATE FOR R1
(ABSENT),
SRI. A.R. LAKSHMINARAYANA, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:27.07.2023
PASSED IN MVC NO.438/2021 ON THE FILE OF THE COURT OF
III ADDITIONAL SENIOR CIVIL JUDGE AND JMFC,
DAVANAGERE, PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION 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
27.07.2023 in MVC.No.438/2021 passed by the III
Additional Senior Civil Judge and JMFC, Davangere¹.

¹ 'Tribunal' for short



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

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

3.1 In an accident dated 08.03.2021, the petitioner aged 37 years suffered fracture of right hand, which has resulted in disability. The doctor who has been examined as PW2, stated that the claimant had suffered 36% to 37% limb disability and however, has not stated anything with respect to whole body. The Tribunal has considered the same at 10%, income at Rs.15,000 p.m., in respect of year of the accident i.e., 2021, awarded total compensation of Rs.6,24,100/-, however 6% interest only on Rs.6,09,100/- and declined to award the same interest on the future medical expenses.

4. Heard Sri. Aravind.H, learned counsel for the appellant and Sri.Lakshminarayana, learned counsel for



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respondent No.2-Insurer. None appeared on behalf respondent No.1.

5. Sri.Aravind, with all vehemence submits that, the Tribunal ought to have considered the whole body disability at 12% i.e., $1/3^{\text{rd}}$ of the limb disability at 36% to 37%. He further submits that, the petitioner was a beautician. The Tribunal has considered the notional income at Rs.15,000/- p.m. Considering the avocation and the trade license produced in that regard and marked at Ex.P10, the Tribunal ought to have considered appropriate income. The notional income of Rs.15,000/- is fixed under the chart prepared by KALSA, so far as unskilled labour is concerned. He further submits that, except medical expenses, the compensation awarded under other heads requires re-consideration and sought to allow the appeal.

6. In contrast Sri.Lakshminarayan, with all submits that, in the absence of actual particulars and the evidence of non-treating doctor, the Tribunal has properly



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considered the disability at 10% of the compensation, and income at 15,000/- p.m., awarded appropriate compensation in view of admission by the claimant herself in her cross examination that she had left the avocation as beautician as such the compensation awarded, call for any interference. However, Sri.Lakshminarayan, is not in serious dispute of with regard to fracture of right hand.

7. Having considered the rival submissions, this Court has perused entire appeal papers.

8. It is undisputed that the injured-plaintiff suffered fracture of right hand. But the doctor who has been examined has stated the disability to the particular limb at 36% to 37%. Normally this Court, would consider the $\frac{1}{3}^{\text{rd}}$ of the limb disability, which would come to 12%. The Tribunal has not recorded any particular reason for considering the limb disability at 10%. In that view of the matter, the whole body disability is taken at 12%.



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9. A perusal of the claim indicates that the compensation awarded under other heads except medical expenses and future medical expenses require reconsideration.

10. 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.	Towards pain and sufferings	15,000-00	30,000-00
2.	Towards Medical expenses	2,69,100-00	2,69,100-00
3.	Towards diet, food, nourishment, attendant and conveyance charges	15,000-00	20,000-00
4.	Towards loss of future earning capacity	2,70,000-00	3,24,000-00 (15,000x12x15x12%)
5.	Loss of income during laid up period	30,000-00	45,000-00 (15,000x3)
6.	Towards loss of amenities	10,000-00	50,000-00
7.	Towards future medical expenses	15,000-00	15,000-00
	TOTAL	6,24,100-00	7,53,100-00

12. Accordingly, the claimant is entitled for enhanced compensation of **Rs.1,29,000/-** which shall



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carry interest at the rate of 6% per annum from the date of petition till realisation.

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

ORDER

- i. Appeal is ***allowed-in-part.***
- ii. The judgment and award dated 27.07.2023 in MVC.No.438/2021 passed by the III Additional Senior Civil Judge and JMFC, Davangere, is hereby modified and enhanced to ***Rs.1,29,000/-***, which shall carry interest at the rate of 6% per annum from date of petition till realisation.
- iii. The respondent No.2/Insurer, shall deposit entire enhanced compensation along with the accrued interest dated supra before the concerned



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Tribunal within six weeks from the date of receipt of copy of this order.

- iv. Upon deposit entire amount shall be released in favour of the claimant on proper identification.
- v. Trial Court records received, if any be sent forthwith to the Tribunal without causing any further delay.
- vi. No order as to costs.

Sd/-
(T.M.NADAF)
JUDGE

PK
List No.: 1 Sl No.: 15
ct-vn