



CNR: KAHC010664512023

NC: 2026:KHC:46695
MFA No. 8348 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF AUGUST, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO.8348 OF 2023(MV-I)

BETWEEN:

SHRI. PUNITH KUMAR,
S/O KRISHNEGOWDA,
AGED ABOUT 26 YEARS,
R/AT NO.4, 8TH MILE,
TUMKUR ROAD,
NEAR BHAVANI SAW MILL,
BENGALURU.

...APPELLANT

(BY SRI. RANGEGOWDA N.R., ADVOCATE)

AND:

1. SHRI. YATHEESHA K.S.,
S/O SUNDRA SHETTY,
AGED ABOUT MAJOR,
R/AT NO.2/4,
PADMASHREE MODANTHILA HOUSE,
ODILNALA, BANTWAL,
KARNATAKA - 574 217.
2. ROYAL SUNDARAM GENERAL
INSURANCE COMPANY LTD.,
R/AT NO.30, 3RD FLOOR,
JNR CITY CENTRE,
RAJARAM MOHAN ROY ROAD,
SAMPANGIRAMANAGAR,
BENGALURU - 560 027.
REP BY ITS MANAGER

...RESPONDENTS

(BY SRI. RAVI SHANKAR S. SAMPRATHI, ADVOCATE FOR R2,
VIDE ORDER DATED 09.01.2024 NOTICE TO R1 IS
DISPEbgNSED WITH)



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THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, 1988, AGAINST THE JUDGMENT AND AWARD DATED:27.04.2023 PASSED IN MVC NO.354/2021 ON THE FILE OF THE III ADDITIONAL JUDGE AND MEMBER, MACT, COURT OF SMALL CAUSES, BENGALURU (SCCH-18), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR ORDERS, 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, assailing the Judgment and Award dated 27.04.2023 passed by the III Additional Judge and Motor Accident Claims Tribunal, Court of Small Causes, Bengaluru (SCCH-18)¹ in MVC No.354/2021.

2. The date of accident, involvement of the vehicle, injury suffered by claimant resulting in paraplegia and liability to pay the compensation are not in dispute. The only dispute is with respect to inadequate compensation awarded by the Tribunal.

¹ the Tribunal, for short



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3. Heard, Sri.Range Gowda.N.R, learned counsel appearing for the claimant and Sri.Ravi S.Samprathi, learned counsel appearing for respondent No.2 - Insurer.

4. Sri.Range Gowda.N.R, with all vehemence submits that the doctor who has been examined as PW.5 deposed that the appellant/claimant had sustained Traumatic T12 vertebra fracture with complete paraplegia, right ankle and chest injury. He has further opined that, the claimant is suffering from disability of motor system to an extent of 75%, sensory system disability 30%, bladder disability 100% and whole body impairment 91%.

4.1 Learned counsel further submits that though the Doctor has stated 75% disability but due to paraplegia, there is loss of 100% earning capacity. The claimant was just aged 20 years as on the date of accident, lost prospectus in life and now confined to bed, requires an attendant constantly for his day-to-day activities. He further submits that the



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claimant was an auto rickshaw driver and in view of paraplegia, his entire earning comes to a standstill. Hence, he cannot be equated with an unskilled labor, to award compensation considering the income fixed under the chart prepared by Karnataka State Legal Services Authority, for settling the dispute before Lok-Adalat, i.e., Rs.14,500/- for the year 2020. Learned counsel further submits that, in view of paraplegia, the claimant requires constant attendance even to do his day-to-day activities, which the Tribunal has missed to award appropriate compensation, except 'medical expenses, which requires reconsideration and re-assessment. With this, he sought to allow the appeal.

5. Refuting the submission of Sri.Range Gowda.N.R, Sri.Ravi S.Samprathi, submits that the Tribunal, as per the Chart supra, has rightly considered the income at Rs.14,500/- per month and awarded appropriate compensation taking 91% of the disability as



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stated by the Doctor. The compensation awarded under all the heads are just and proper, and does not call for any interference. However, learned counsel is not in serious dispute with the fact that the claimant is suffering from paraplegia.

6. Having heard the learned counsel appearing for the parties, perused the entire appeal paper.

7. Admittedly, the accident had occurred on 22.10.2020. As per the income under the chart prepared by the Karnataka State Legal Services Authority for settling the disputes before the Lok-Adalat for the year 2020 is shown as Rs.14,500/- p.m. The amount fixed under the chart is with respect to unskilled labor. The claimant was an auto rickshaw driver, which is skilled avocation. Hence, he cannot be equated with an unskilled labor to consider the income as fixed under the Chart supra. Hence, this Court is of the opinion that, if Rs.16,000/- is considered as income per month,



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considering the year of the accident being 2020, the same would meet the ends of justice.

8. The claimant was aged 20 years at the time of accident, suffered severe injuries resulting in paraplegia. The Doctor has clearly opined that with such paraplegia, the total body disability is 91% to the whole body. After going through entire material, this Court is of the considered opinion that though the Doctor has stated 91% disability to the whole body, the same has resulted in loss of 100% in earning capacity in view of paraplegia. Since there is loss of 100% of earning capacity, the appellant is also entitled for 40% to be added towards future prospects to the existing income with respect to his age and along with proper multiplier applicable i.e., '18'.

9. In the teeth of the evidence of the Doctor, the claimant requires an attendant constantly throughout his life, which has to be compensated by fixing payment of income to the attendant for the service. The reason being



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the disabled claimant cannot be expected to rely only upon gratuitous services of his well wishers and family members. Owing to his avocation, the expenses for an attendant is required to be fixed at Rs.10,000/- p.m., as bare minimum. The expenses of Rs.10,000/- would amount to Rs.1,20,000/- annually. The same is required to be multiplied by multiplier with the age of claimant which would be '18'. That would comes to $\text{Rs.}10,000 \times 12 \times 18 = \text{Rs.}21,60,000/-$.

10. With the paraplegia, the claimant is confined to bed and not in a position to freely walk around and even to do the day-to-day activities. Over a period of time, he may develop bed sours, which requires constant care and dressing. The appellant is on urinary catheter, which requires to be changed once in a fortnight. This situation demands recurring needs for testing, treatment and further hospitalization, which requires considerable expenses. Keeping in mind the possibilities, a sum of Rs.3,00,000/- requires to be awarded for future medical



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expenses as against Rs.1,00,000/- awarded by the Tribunal.

11. This Court finds force in the arguments of Sri.Range Gowda, that the claimant has lost all marriage prospects. The claimant has suffered paraplegia and lost lower body motor control and sensation. This has shattered all his aspiration of marriage, which though may not be compensated in money, but the appropriate compensation may give some solace. Accordingly, this Court is of the considered opinion that a sum of Rs.3,00,000/- as compensation would be just and proper for loss of future marriage prospects.

12. In view of considering the loss of earning capacity at 100%, the claimant is not entitled for any compensation under head loss of earning during treatment period. A perusal of compensation awarded under each head by the Tribunal, when compared to the injuries suffered requires reconsideration, except medical



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expenses, in addition to the heads under the attendant charges as well as loss of marriage prospects considered and awarded by this Court supra.

13. This Courts view towards taking the loss of earning capacity at 100% and adding 40% future prospects so also awarding compensation towards attendant charges and awarding compensation under future medical expenses gains strength from the judgment of Hon'ble Apex Court in ***JITHENDRAN VS. THE NEW INDIA ASSURANCE COMPANY LIMITED AND ANOTHER***². The Hon'ble Apex Court, considered the loss of earning capacity at 100% as against the disability stated at 69% and awarded compensation by adding 40% future prospects with respect to age of the claimant. At paragraph No.8, the Hon'ble Apex Court has opined for awarding compensation towards attendant charges and at

² Civil Appeal.No.6494/2021 Dated:24.10.2021



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paragraph No.9, towards future medical expenses, both read as under:

"8. As earlier noted, the appellant has suffered 69% permanent disability and without assistance, cannot perform everyday functions. The claimant with seriously impaired cognitive and physical capabilities would surely need full time assistance even for the confined life that he is leading. In such circumstances, the disabled claimant cannot be expected to rely only upon gratuitous services of his well-wishers and family members. Importantly, the presiding judge in the Tribunal himself noticed that the claimant would require the assistance of a bystander/attendant for all his movements. Consequently, bearing in mind the need for assisted living and what was said in **KAJAL VS. JAGDISH CHAND AND OTHERS**³, it is found necessary to add the expenses for service of an attendant for the claimant. Since no material is produced to quantify the expenses for the attendant, making a conservative estimate, Rs.5,000/- per month appears to be the bare minimum. It is therefore deemed appropriate to quantify the annual expenses at Rs.60,000/- and applying the multiplier of 18, the additional compensation payable under the bystander head is quantified at Rs.10,80,000/-.

9. The appellant has produced adequate medical documents before the High Court to show the recurring needs for testing, treatment and further hospitalization for which, considerable expenses were incurred even after the initial 191 days of hospitalization. As a person suffering severe cognitive impairment and 69% disability, recurring medical treatment is inevitable and bearing in mind the additional expenses already incurred, we deem it appropriate to enhance the future medical expenses to Rs.3,00,000/- (from Rs.1,00,000/-), since the sum quantified by the High Court appears to be on the lower side."

³ (2020) 4 SCC 413



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14. Having considered the entire material placed on record and for the foregoing reasons, the compensation awarded by the Tribunal requires reconsideration.

15. In summary, the total compensation re-determined by this Court under various heads is as follows:

Sl. No.	Heads	Compensation awarded by the Tribunal In Rs.	By this Court In Rs.
1.	Pain and suffering	1,50,000-00	2,00,000-00
2.	Medical Expenses	3,98,872-00	3,98,872-00
3.	Loss of income during laid-up period	Nil	Nil
4.	Attendant, Nourishment and Conveyance Charges	50,000-00	21,60,000-00 (10,000x12x18)
5.	Loss of future income	39,90,168-00	48,38,400-00 (16,000+40% $\times$ 12x18x100%)
6.	Loss of prospectus of marriage	1,00,000-00	3,00,000-00
7.	Future medical expenses	1,00,000-00	3,00,000-00
8.	Loss of amenities	1,00,000-00	2,00,000-00
	TOTAL	48,89,040-00	83,97,272-00

16. On re-determination, in all the claimant is entitled for a sum of Rs.83,97,272/- as against Rs.48,89,040/-. Accordingly, the enhanced compensation



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works out to be **Rs.35,08,232/-** (83,97,272 - 48,89,040) rounded off at **Rs.35,09,000/-**, which shall carry interest at the rate of 6% p.a. from the date of petition till realization.

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

ORDER

- i) The appeal is ***allowed-in-part***.
- ii) The judgment and award dated 27.04.2023 passed by the III Additional Judge and Motor Accident Claims Tribunal, Court of Small Causes, Bengaluru (SCCH-18) in MVC No.354/2021 is modified and the compensation is enhanced.
- iii) The appellant – claimant is entitled for an additional enhanced compensation of **Rs.35,08,232/-** (83,97,272 - 48,89,040) rounded off at **Rs.35,09,000/-**, along with interest at the rate of 6% per annum from the date of filing of the petition till realization;
- iv) The enhanced compensation amount along with accrued interest *supra* shall be deposited



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by the respondent No.2 – Insurance Company, within six weeks from the date of receipt of copy of this order before the concerned Tribunal;

- v) Upon deposit, 30% along with accrued interest shall be released in favour of the claimant upon proper identification. Balance 70% along with accrued interest shall be invested in an interest bearing FDR with any Nationalised Bank for a period of 5 years renewable by two terms of three years each.
- vi) The Bank shall not permit any loan on the amount invested without an order by the concerned Tribunal/Court.
- vii) No order as to costs.

**Sd/-
(T.M.NADAF)
JUDGE**

TKN
List No.: 1 Sl No.: 28
ct-vn