



CNR: KAHC010667222023

NC: 2026:KHC:43760
MFA No. 8375 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.8375 OF 2023(MV-I)

BETWEEN:

FRANCIS DSOUZA,
S/O DUMING DSOUZA,
AGED ABOUT 57 YEARS,
RESIDING AT KUSHKI,
SHIRUPATHI VILLAGE,
SANKADAHOLE POST,
THIRTHAHALLI TALUK,
SHIMOGA - 577 432.

...APPELLANT

(BY SRI. NAIK KRISHNA VENKATRAMAN, ADVOCATE)

AND:

1. THE MANAGER IFFCO-TOKIO
GENERAL INSURANCE CO., LTD.,
NO.3, KSCMF BUILDING,
3RD FLOOR, 3RD BLOCK,
CUNNINGHAM ROAD,
BENGALURU - 560 001.
(POLICY ISSUED BY ITS
SHIMOGA BRANCH OFFICE
IN POLICY NO.1-23Q1J2GK P400
MM449948 DATE OF VALIDITY FROM
09.11.2021 TO 08.11.2022.



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2. SMT. PREETHA P.,
W/O PRAKASH,
AGED ABOUT 39 YEARS,
R/A NEAR MALNAD CLUB,
BALEBAILU,
THIRTHAHALLI,
SHIMOGA DISTRICT - 577 432.

...RESPONDENTS

(BY SRI. B.C. SHIVANNE GOWDA, ADVOCATE FOR R1,
VIDE ORDER DATED 17.08.2026 NOTICE TO R1 IS
DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
1988, AGAINST THE JUDGMENT AND AWARD
DATED:23.08.2023 PASSED IN MVC NO.167/2022 ON THE FILE
OF THE C/C XXIV ADDITIONAL SCJ, ACMM, MEMBER, MACT,
BENGALURU SCCH-23 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



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ORAL JUDGMENT

This appeal is by claimant seeking enhancement of compensation arising out of judgment and award dated 23.08.2023, in MVC.No.167/2022 passed by the XXIV Additional Small Causes Judge and Motor Accident Claims Tribunal and ACMM (SCCH-26), Bengaluru¹.

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

3. Heard Sri.Naik Krishna Venkatraman, learned counsel for the claimant and Sri.B.C.Shivanne Gowda, learned counsel for respondent No.1-Insurer. Vide order dated 17.08.2026, notice of this appeal is dispensed with in respect of respondent No.2.

4. Sri.Naik Krishna Venkatraman, vehemently submits that the claimant has sustained fracture of right proximal humerus and left distal tibia with talus fracture.

¹ "Tribunal" for short



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He was an in-patient for a period of 13 days and underwent surgery for internal fixation. The Doctor who has been examined has assessed the disability of right arm at 46% and the whole body disability at 15%. He further submits that the accident is of the year 2021, however, the Tribunal has considered the income at Rs.11,500/- p.m. which is against the income fixed under the chart prepared by the Karnataka State Legal Services Authority² for settlement of disputes before the Lok Adalath. He further submits that the compensation awarded under other heads i.e., pain and suffering, loss of amenities, income during laid-up period, conveyance, food nourishment and attendant charges are inadequately awarded and requires reconsideration.

5. Sri.B.C.Shivanne Gowda, with all force submits that the Tribunal having considered the evidence of the doctor taking into consideration of the fact that, he was

² "KSLSA" for short



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not the treated doctor, has considered the disability at 10% and awarded appropriate compensation which does not call for any interference and accordingly sought to dismiss the appeal.

6. Having considered the rival submissions, this Court is of the opinion that though the Doctor was not a treated doctor, the fractures suffered, the treatment taken and surgery underwent and the medical expenses incurred, the disability which is clearly stated at 46% and 15% to the whole body. Admittedly the year of accident 2021. The Tribunal has taken the monthly income at Rs.11,500/-. The monthly income fixed under the chart supra for the year 2021 is Rs.15,000/-. This is not seriously disputed by Sri.B.C.Shivanne Gowda. In that view of the matter the disability is taken at 15%. A perusal of compensation awarded under all the heads, except medical expenses, future medical expenses are inadequate and requires reassessment.



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7. Accordingly, this Court proceed to reassess the compensation awarded by the Tribunal which is as under:

Sl. No.	Heads	Compensation awarded by the Tribunal In Rs.	By this Court In Rs.
1.	Loss of future earnings	1,51,800-00	2,97,000-00 (15,000X12X11X15%)
2.	Pain and Suffering	40,000-00	60,000-00
3.	Loss of amenities	20,000-00	50,000-00
4.	Medical expenses	2,11,198-00	2,11,198-00
5.	Future medical expenses	20,000-00	20,000-00
6.	Conveyance, Food, Nourishment & Attendant Charges	13,000-00	25,000-00
7.	Loss of income during laid-up period	34,500-00	60,000-00 (15,000x4)
	TOTAL	4,90,498-00	7,23,198-00

8. The claimants are entitled for enhanced compensation of Rs.2,32,700/- (Rs.7,23,198-Rs.4,90,498) rounded off to **Rs.2,33,000/-** with interest at the rate 6% interest per annum from the date of petition till realization.

9. For the foregoing reasons, this Court proceedings pass the following:



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ORDER

- (i) The appeal is ***allowed in part.***
- (ii) The judgment and award dated 23.08.2023 passed by the Tribunal in MVC.No.167/2022 is modified and enhanced to **Rs.2,33,000/-** with interest at the rate of 6% per annum from the date of petition till realization.
- (iii) Respondent No.2-Insurer shall deposit the entire enhanced compensation along with accrued interest stated supra within six weeks from the date of receipt of copy of this order before the concerned Tribunal.
- (iv) Upon deposit the entire amount is ordered to be released in favour of the claimant on proper identification.



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(v) The Registry to send back the trial Court record to the concerned Tribunal, without causing any delay.

(vi) No order as to costs.

Sd/-
(T.M.NADAF)
JUDGE

RR
List No.: 1 Sl No.: 3
ct-vn