



CNR: KAHC010673142025

NC: 2026:KHC:53380  
MFA No. 7681 of 2025

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 25<sup>TH</sup> DAY OF SEPTEMBER, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR**

**MISCELLANEOUS FIRST APPEAL No. 7681 OF 2025**

**(MV-I)**

**BETWEEN:**

SRI SHEKARAPPA  
S/O LATE MALLAPPA  
NOW AGED ABOUT 45 YEARS  
RESIDING AT:  
P KODIHALLI, YAGATI HOBLI  
KADUR TALUK  
CHIKKAMAGALORE DISTRICT  
NOW RESIDING AT:  
ANGANAWADI  
VIDYANAGARA  
BEHIND KALPATARU COLLEGE  
TIPTUR  
TUMKUR DISTRICT-572 202.

...APPELLANT

(BY SRI B CHANDRASHEKHARAIHAH, ADVOCATE)

**AND:**

1. MR. MAHAMAD GOUSE  
S/O SHEK BUDEN SAB  
MAJOR  
(AGE R-1 OF NOT KNOWN  
TO APPELLANT )  
R/AT: No. 50, HONNEBAGI

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CHIKKANAYAKANAHALLI TALUK  
PIN-572 214.

2. UNITED INDIA INSURANCE COMPANY LTD.,  
RAGHAVENDRA COLONY B.H.ROAD, TIPTUR  
TUMKUR DISTRICT-572 202.  
BY ITS MANAGER.

...RESPONDENTS

(BY SRI K NAGARAJAIAH, ADVOCATE FOR R2  
V/O DTD. 25.10.2025, NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,  
AGAINST THE JUDGMENT AND AWARD DATED:12.02.2025  
PASSED IN MVC No.1105/2021 ON THE FILE OF THE COURT OF  
SENIOR CIVIL JUDGE, MACT, J.M.F.C, TIPTUR, PARTLY  
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND  
SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL COMING ON FOR FINAL HEARING THIS  
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

### **ORAL JUDGMENT**

This appeal is filed by the appellant -claimant  
challenging the judgment and award dated 12.02.2025  
passed in MVC No.1105/2021 by the Senior Civil Judge  
and MACT, Tiptur.

2. The appellant made a claim petition praying to  
award compensation for the injuries sustained by him in a

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road traffic accident occurred on 11.11.2016 contending that the accident occurred due to rash and negligent driving of rider of TVS Sports bike bearing registration No.KA-44/S-3436. The Tribunal after recording the evidence of the parties, appreciating the evidence has assessed the compensation and awarded compensation under various heads as under:

|    |                                                      |       |                |
|----|------------------------------------------------------|-------|----------------|
| 01 | Loss of future income                                | :     | Rs.3,42,000-00 |
| 02 | Pain and sufferings                                  | :     | Rs.30,000-00   |
| 03 | Loss of income during treatment                      | :     | Rs.19,000-00   |
| 04 | Medical, conveyance, Nutrition and Attendant charges | :     | Rs.1,11,000-00 |
| 05 | Loss of future happiness and amenities               | :     | Rs.30,000-00   |
|    |                                                      | Total | Rs.5,32,000-00 |
|    | 50% towards contributory negligence is deducted.     |       | Rs.2,66,000-00 |
|    |                                                      | Total | Rs.2,66,000-00 |

4. The Tribunal held that the claimant has contributed to the accident and assessed his contributory negligence at 50% and after deduction 50% of compensation amount awarded Rs.2,66,000/- with interest at the rate of 6% per annum from the date of petition till

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realization and directed respondent No.2 -insurer to deposit the award amount with interest. The claimant has filed appeal challenging contributory negligence attributed to him and sought enhancement of compensation.

5. Heard learned counsel for the appellant and learned counsel for respondent No.2 -insurer.

6. Learned counsel for the appellant would contend that the after the accident claimant has lost consciousness and admitted in the hospital and during that time FIR has been registered against him. Based on FIR, charge sheet has been filed by Investigating Officer in Criminal Case i.e., C.C.No.183/2017. The appellant - claimant has been acquitted and it is based on the evidence of investigating officer and other witnesses. The claimant has filed private complain against rider of motor cycle bearing registration No.KA-44/S-3436 and after taking cognizance, a case has been registered against rider of said vehicle in C.C.No.500/2020 wherein accused

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(rider of motor cycle bearing registration No.KA-44/S-3436) has pleaded guilty and paid fine. The said aspect clearly indicates that entire negligence is on the part of the rider of insured motor cycle. Therefore, contributory negligence attributed to the claimant by the Tribunal is not proper. He further submits that claimant has sustained fractures and other injuries on the face including eye due to which he sustained visual disability and also psycho neuro disability. C.W.1 –doctor has assessed the same and stated claimant has sustained psycho neuro disability at 25% and visual disability at 30%. Inspite of that the Tribunal has erred in taking disability at 20%. Considering the injuries sustained, compensation awarded under pain and suffering, loss of amenities and loss of income during laid up period are on lower side. The claimant has been admitted in the hospital for 05 days and therefore, the claimant is entitled to attendant, conveyance charges, food and nourishment etc. With these, he prays to allow the appeal.

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7. Learned counsel for respondent No.2 –insurer would contend that considering the charge sheet filed against claimant and also that rider of offending vehicle has registered criminal case against the claimant has rightly assessed the contributory negligence on the part of the claimant at 50%. The compensation awarded by the Tribunal under all other heads just and proper and there are no grounds for enhancement. With these, he prays to dismiss the appeal.

8. Having heard learned counsels, the court has perused impugned judgment, award and trial Court records.

9. The following points arise for consideration:

- i) Whether the Tribunal is justified in attributing contributory negligence on the part of claimant at 50%?
- ii) Whether there are any grounds for enhancement of compensation?



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**Reasons to point No.1:** The accident occurred on 11.11.2016 at 04.00 p.m. Immediately after accident the claimant has been admitted in the hospital. On the basis of first information filed by one Sri Siddalingmurthy, FIR has been registered against claimant and subsequently, charge sheet has been filed against claimant and copy of which is at Ex.P7. The criminal case registered against claimant based on the said charge sheet has been contested by the claimant. Judgment passed on the said criminal case i.e. C.C.No.183/2017 is at Ex.P21. The claimant has been acquitted in the criminal case based on evidence of witnesses and investigating officer. The claimant has filed private complaint against rider of motor cycle –Sri Prakash bearing registration No.KA-44/S-3436. On the basis of the said private complaint, criminal case has been registered against him in C.C.No.500/2020. In the said case, the rider of motor cycle bearing registration No.KA-44/S-3436 has pleaded guilty and he has been convicted for offences punishable under Sections 279, 337 and 338 of IPC and he

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has paid fine. Order sheet of the same is at Ex.P21. Considering the fact that the claimant has been acquitted in the criminal case registered against him and that the rider of the motorcylce has been convicted in the criminal case and finding of the Tribunal is that there is head on collusion, the contributory negligence attributed to the claimant at 50% is on higher side and contributory negligence is assessed at 20% on the part of the claimant and 80% is on rider of motor cycle bearing registration No.KA-44/S-3436. Accordingly, point no.1 is answered.

**10. Reasons to point No.2:** The claimant has sustained following injuries:

- i) Fractures of facial bones
- ii) Bones around left eye

Considering the said injuries, the compensation awarded towards pain and suffering in a sum of Rs.30,000/- is enhanced to Rs.60,000/- and loss of amenities awarded in a sum of Rs.30,000/- is enhanced to

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Rs.50,000/-. The claimant's avocation is agriculturist. Considering the said injury sustained that he has to take rest at least for 03 months. Therefore, he is entitled to loss of income during laid up period in a sum of Rs.28,500/- (Rs.9,500/- x 03 months) as against Rs.19,000/- as awarded by the Tribunal. The claimant has incurred medical expenses of Rs.1,10,063/- as per Medical Bills –Ex.P18 and therefore, the claimant is entitled to medical expenses of Rs.1,10,063/-. The claimant has been admitted in the hospital for 05 days and therefore, he is entitled to attendant and conveyance charges, food and nourishment etc., in a sum of Rs.5,000/- (Rs.1,000/- x 5 days).

11. C.W.1 is doctor and has examined the claimant, assessed the disability. He has stated that the claimant has sustained psycho neurological disability at 25% and visual disability at 30%. Considering evidence, the Tribunal has taken disability at 20%. Considering the evidence of doctor, age of claimant and injuries sustained

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by him, the disability taken by the Tribunal is on lower side and disability is to be taken at 25%. The Tribunal has rightly taken notional income at Rs.9,500/- per month. As the disability is more than 20%, the claimant is entitled to future prospects.

12. The tribunal has taken age of the claimant at 40 years based on the medical records and the claimant himself stated he is 40 years old in his evidence. Ex.P19 is driving license of the claimant wherein his date of birth is 01.06.1978. The date of birth mentioned in the driving license authentic since entry is based on the documents. Considering the date of birth mentioned in driving license i.e, 01.06.1978, the claimant was aged 38 years 05 months 10 days. Therefore, the age of the claimant is taken at 38 years. As claimant is aged at 38 years, the multiplier applicable is '15' and future prospectus at 40%. In view of the above, future income due to disability is calculate as under:

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Rs.9,500/- +40% = Rs.13,300/- x 12x15x25% =  
Rs.5,98,500/-.

13. In view of the above, the claimant is entitled to total compensation under various heads as under:

|              |                                                      |                      |
|--------------|------------------------------------------------------|----------------------|
| 01           | Loss of future income due to disability              | Rs.5,98,500/-        |
| 02           | Pain and sufferings                                  | Rs.60,000/-          |
| 03           | Loss of income during treatment                      | Rs.28,500/-          |
| 04           | Medical, conveyance, Nutrition and Attendant charges | Rs.5,000/-           |
| 05           | Loss of future happiness and amenities               | Rs.50,000/-          |
| 06           | Medical Expenses                                     | Rs.1,10,063/-        |
| <b>Total</b> |                                                      | <b>Rs.8,52,063/-</b> |

Since the claimant has contributed to the accident at 20%, the claimant is entitled to 80% of the total compensation of Rs.8,52,063/- and it is Rs.6,81,650/- Therefore, the claimant is entitled to enhanced compensation of Rs.4,15,650/- (Rs.6,81,650/- less Rs.2,66,000/-) with interest at the rate of 6% per annum from the date of petition till realization. The appellant – claimant is not entitled to interest for delay period of 153



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days in filing appeal as per order dated 25.10.2025 passed on IA No.1/2025. Respondent No.2 -insurer is liable to pay the said enhanced compensation amount with interest.

14. In view of the above, the following

**ORDER**

- i) The appeal is ***allowed in part.***
- ii) The appellant –claimant is entitled to enhanced compensation of Rs.4,15,650/- with interest at the rate of 6% per annum from the date of petition till realization.
- iii) The appellant –claimant is not entitled to interest for delay period of 153 days in filing the appeal.
- iv) Respondent No.2 –insurer shall deposit the said enhanced compensation amount with interest before the Tribunal within a period of 06 weeks from this day.

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- v) The appellant –claimant is entitled to release entire enhanced compensation amount.
- vi) Office is directed to send back trial Court records.

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**(SHIVASHANKAR AMARANNAVAR)**  
**JUDGE**

DSP  
List No.: 2 SI No.: 25  
Ct.sm