



CNR: KAHC010674432024

NC: 2026:KHC:46951
MFA No. 7654 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF AUGUST, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO.7654 OF 2024(MV-I)

BETWEEN:

KRISHNA,
S/O. CHANDREGOWDA,
AGED ABOUT 33 YEARS,
R/AT MALLAPURA VILLAGE,
RAMANATHAPURA HOBLI,
ARAKALAGUD TALUK,
HASSAN DISTRICT - 573 102.

...APPELLANT

(BY SRI. VIJAY KUMAR T., ADVOCATE)

AND:

1. MANJUNATHA,
S/O. ANNAPPA,
AGED ABOUT 38 YEARS,
R/AT MARANAKOPPALU VILLAGE,
MALLIPATNA HOBLI,
ARAKALAGUDU TALUK,
HASSAN DISTRICT - 573 102.
2. B.V. PRADEEPA,
S/O. VENKAPPA,
AGED ABOUT 43 YEARS,
R/AT THAL THAR SHETTIHALLI VILLAGE,
HANGAL POST AND HOBLI,
SOMWARPETE TALUK,
KODAGUD DISTRICT - 571 236.



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3. THE ORIENTAL INSURANCE CO. LTD.,
NEW DELHI, REPRESENTED BY THE MANAGER,
ORIENTAL INSURANCE CO. LTD.,
SUBHASH CIRCLE, HASSAN,
HASSAN DISTRICT - 573 201.

...RESPONDENTS

(BY SRI. PRASANNA D.P., ADVOCATE FOR R2,
SMT. GEETHA RAJ, ADVOCATE FOR R3)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:19.01.2024
PASSED IN MVC NO.498/2021 ON THE FILE OF THE SENIOR
CIVIL JUDGE AND MEMBER, MACT, ARAKALAGUD, 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
19.01.2024 passed by the Senior Civil Judge and MACT,
Arakalagud¹ in MVC No.498/2021.

¹ the Tribunal, for short



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2. The date of accident and injury suffered by the claimant are not in dispute. The only dispute is with regard to quantum and liability to pay compensation.

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

4. Heard, Sri.T.Vijay Kumar, learned counsel appearing for the appellant/ claimant, Sri.Prasanna.D.P, learned counsel appearing for respondent No.2 and Smt.Geetha Raj, learned counsel appearing for respondent No.3 - Insurer. Vide order dated 08.06.2026, notice of this appeal on respondent No.1 is dispensed with.

5. Sri.T.Vijay Kumar, learned counsel submits that the claimant suffered injuries viz., (1) lacerated wound about 3 x 1 cm noted at left parietal region, (2) contusion about 3 x 3 cm noted at right side of forehead, (3) active bleeding from left ear noted and (4) head injury with left temporal SDH with left clavicle fracture. He further submits that, the claimant undergone surgery. Despite the



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same, the Tribunal without considering the injuries suffered awarded meager compensation of Rs.2,21,100/- with interest @ 6% per annum from the date of petition till realization and sought to enhance the compensation.

5.1 Learned counsel further submits that, the Tribunal though allowed the claim petition and granted compensation, but erred in exonerating the Insurer absolutely, thereby fastening the entire liability on the Insured on the premise that the rider of the motor cycle was not holding valid license as on the date of accident and there is a violation in the policy condition. He further submits that, in view of settled position of law, the Tribunal ought to have directed the Insurer to pay compensation primarily with a liberty to recover the same from the Insurer, as the claimant was a third party. With this he sought to allow the appeal.



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6. Sri.Prasanna.D.P, learned counsel appearing for the Insured with equal vehemence submits that the Tribunal has awarded appropriate compensation, as such the same does not require any enhancement.

7. Though Smt.Geetha Raj, learned counsel appearing for the Insurer argued in support of order passed by the Tribunal, however, she is not in serious dispute with the injuries suffered and the law laid down by the Hon'ble Supreme Court regarding pay and recovery.

8. Having heard the rival submissions, perused the entire appeal paper.

9. The following points would arise for my consideration:

(1) *Whether the claimant has made out any case for enhancement?*

(2) *Whether the Tribunal is right in exonerating the insurer absolutely?*



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10. My answer to the above points for consideration are as under:

Point No.1 : ***Partly in the Affirmative.***

Point No.2: ***Partly in the Affirmative,*** for the following:

REASONS

11. **POINT NO.1**: Looking into consideration of the injuries suffered, treatment taken, surgery undergone and medical expenses incurred, this Court is of the view that, if another global sum of Rs.75,000/- with interest of 6% per annum is awarded, the same would meet ends of justice. The re-determined amount therefore comes to Rs.2,96,100 rounded off to Rs.2,97,000/- Accordingly, the point No.1 is answered partly in the affirmative.

12. **POINT NO.2**: So far as liability to pay the compensation is concerned, the Tribunal has fastened the entire liability on the Insured, exonerating the Insurer absolutely only on the ground that the rider of the vehicle was not holding valid license as on the date of accident



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and there is a violation of policy condition. Admittedly, the claimant was a third party. In view of settled position of law by the Hon'ble Supreme Court in ***PAPPU AND OTHERS VS. VINOD KUMAR LAMBA AND ANOTHER***², whenever there is involvement of third party claim, even in the violation of policy conditions, on driving license the Insurer is primarily made liable to pay the compensation with liberty to recover the same from the Insured. In these circumstances, the finding of the Tribunal exonerating the Insurer absolutely is erroneous. Accordingly, the point for consideration is answered ***Partly in the Affirmative*** and the finding of the Tribunal is modified. In view of answering Point No.2 in favor of the claimant, the Insurer is directed to pay the compensation primarily with a liberty to recover the same from the owner of the vehicle i.e., Insured.

² (2018) 3 SCC 208



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

ORDER

- (i) The appeal is ***allowed in part.***
- (ii) The judgment and award dated 19.01.2024 passed by the Senior Civil Judge and MACT, Arakalagud in MVC No.498/2021 is modified and re-determined at Rs.2,97,000/- with interest of 6% per annum from the date of petition till realization.
- (iii) Respondent No.3 - Insurer is directed to deposit the entire compensation along with accrued interest supra primarily before the Tribunal within six weeks from the date of receipt of certified copy of this order, with a liberty to recover the same from the Insured.



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- (iv) Upon deposit, the entire amount shall be released in favor of the claimant on proper identification.
- (v) The Trial Court Record secured if any, shall be transmitted forthwith to the concerned Tribunal.
- (vi) Since the Insured is represented by counsel before the Court, the Insured is therefore bind over to indemnify the Insurer by producing the documents with respect to the properties in his name, so as to enable the Insurer to recover the amount paid in this case to the claimant.
- (vii) No order as to costs.

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

TKN
List No.: 1 Sl No.: 5
ct-vn