



CNR: KAHC010683282024

NC: 2026:KHC:46697
MFA No. 7869 of 2024

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.7869 OF 2024(MV-I)

BETWEEN:

SRI. MURTHY,
S/O LATE PADDANNA,
NOW AGED ABOUT 60 YEARS,
RESIDING AT KARIYANAPURA,
'H' CROSS, JANGAMAKOTE HOBLI,
SIDLAGHATTA TALUK,
CHIKKABALLAPURA DISTRICT.

...APPELLANT

(BY SMT. SUSHMITHA G., ADVOCATE)

AND:

1. SRI SACHIN D M
S/O MAHESH D.N.,
MAJOR IN AGE,
RESIDING AT DODDEGOWDANA
KOPPALU VILLAGE,
KALKUNI HOBLI,
KIRUGAVALU POST,
MALAVALLI TALUK,
MANDYA DISTRICT - 571 424.
2. THE TATA AIG GENERAL
INSURANCE COMPANY LTD,
2ND FLOOR, JP AND DEVI
JAMBUKESHWAR ARCADE,



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NO.69, MILLERS ROAD,
BENGALURU - 560 052.
REP BY ITS MANAGER

...RESPONDENTS

(BY SRI. PRADEEP B., ADVOCATE FOR R2,
VIDE ORDER DATED 23.04.2026 NOTICE TO R1 IS
DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:07.06.2023
PASSED IN MVC NO.1614/2022 ON THE FILE OF THE IX
ADDITIONAL SMALL CAUSE JUDGE SMALL CAUSES AND
ADDITIONAL MACT, BENGALURU, (SCCH-7), PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
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 enhancement of
compensation, assailing the Judgment and Award dated
07.06.2023 passed by the IX Additional Small Causes



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Judge, Court of Small Causes, Member, MACT-7, Bengaluru¹ in MVC No.1614/2022.

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

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

3.1 In an accident occurred on 01.03.2022, the claimant aged 58 years, suffered injuries due to the actionable rash and negligent driving of Ashoka Leyland Dost Vehicle bearing Registration No.KA-11-B-4576 by its driver. In the accident, he has suffered right leg type II compound fracture distal tibia and fibula and undergone CRIF with IMIL nail. The doctor who has been examined as PW.2 has stated that there is swelling of the right leg, the claimant is unable to sit down, squat and sit cross leg, unable to lift weights, restricted right knee and ankle movements and X-ray

¹ the Tribunal, for short



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of right leg shows united fracture with implant in sit. He has also deposed that, the claimant has sustained physical disability of the right lower limb at 42% and whole body at 14% and he needs another surgery for the removal of the implant, estimating the surgery cost at Rs.60,000/-.

3.2 The Tribunal after appreciation of evidence, considering the income at Rs.15,500/- as per the chart prepared by Karnataka State Legal Services Authority, for settlement of disputes before Lok-Adalat and taking the disability at 10% to the whole body, awarded compensation under various heads, totaling to Rs.3,66,746/- with interest @ 6% per annum from the date of petition till realization.

4. Heard, Smt.Sushmitha.G, learned counsel appearing for the appellant/ claimant, Sri.B.Pradeep, learned counsel appearing for respondent No.2 - Insurer.



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Vide order dated 23.04.2026, notice of this appeal on respondent No.1 is dispensed with.

5. Smt.Sushmitha, with all vehemence submits that the doctor considering the injury and after clinical examination, clearly stated that the claimant has got 14% disability to the whole body, being 1/3rd of 42%. Despite the same, the Tribunal has considered disability at 10%. The compensation awarded by the Tribunal under other heads also requires reconsideration and the same may be enhanced.

6. Refuting the submissions, Sri.B.Pradeep, with all vehemence submits that the doctor who has been examined is not a treated doctor, which has been elicited in his cross-examination. Hence, the Tribunal has rightly considered the disability at 10%, and considered the income at Rs.15,500/- per month as per the Chart supra and awarded appropriate compensation. As such, there is



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no scope for enhancement of compensation and sought to dismiss the appeal.

7. Having considered the rival submissions, perused the entire appeal paper.

8. As seen from the Judgment and Award of the Tribunal, the Tribunal while answering Issue No.3, at paragraph No.14 considered the injury sustained by the claimant viz., right leg type II compound fracture distal tibia and fibula and undergone CRIF with IMIL nail and as per the recent X-ray, united fracture with implant in situ. Despite the same, the Tribunal has committed an error in considering the disability at 10% only on the premise that the doctor who has been examined is not a treated doctor. In that view of the matter, looking into the injuries suffered and treatment undergone, this Court is of the opinion that the disability must have been considered at 14%.



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9. Further, a perusal of compensation awarded by the Tribunal under other heads, except 'medical expenses' and 'future medical expenses', requires re-assessment. Accordingly, this Court proceeds to re-assess the compensation as under:

Sl. No.	Heads	Compensation awarded by the Tribunal In Rs.	By this Court In Rs.
1.	Towards loss of future income	1,67,400-00	2,34,360-00 (15,500x12x9x14%)
2.	Towards pain and sufferings	50,000-00	60,000-00 (50,000+10,000)
3.	Towards medicine and hospital bill	84,346-00	84,346-00
4.	Towards loss of earning during rest period and attendant charges	25,000-00	62,000-00 (15,500x4)
5.	Towards loss of amenities	20,000-00	50,000-00 (20,000+30,000)
6.	Future medical expenses	20,000-00	20,000-00
	TOTAL	3,66,746-00	5,10,706-00

10. Accordingly, the claimant is entitled for enhanced compensation of Rs.1,43,960/- (5,10,706 - 3,66,746) rounded off at **Rs.1,44,000/-**, which shall carry interest at the rate of 6% per annum from the date of petition till realization.



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11. For the foregoing reasons, this Court proceed to pass the following:

ORDER

- (i) The appeal is ***allowed in part.***
- (ii) The judgment and award dated 07.06.2023 passed by the IX Additional Small Causes Judge, Court of Small Causes, Member, MACT-7, Bengaluru in MVC No.1614/2022 is modified and compensation is enhanced.
- (iii) The claimant is entitled for enhanced compensation of **Rs.1,44,000/-** with interest of 6% per annum from the date of petition till realization.
- (iv) Respondent No.2 - Insurer shall deposit the entire enhanced compensation along with interest stated supra within six weeks from the date of receipt of copy of this order before the concerned Tribunal.



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(v) Upon deposit, the entire amount shall be released in favor of the claimant on proper identification.

(vi) No order as to costs.

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

TKN
List No.: 1 Sl No.: 22
ct-vn