



CNR: KAHC010793012025

NC: 2026:KHC:42686
MFA No. 9154 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 9154 OF 2025

(MV-I)

BETWEEN:

SRI. SRINIVASACHARY. R
S/O RAJANNACHARY
NOW AGED ABOUT 31 YEAR
RESIDING AT:
NO. 20, 2ND MAIN, 3RD CROSS
KENGARI KOTE
BENGALURU-560 060.

PERMANENT ADDRESS
RAGIBOMMANAHALLI VILLAGE AND POST,
MALAVALLI TALUK
KIRUGAVALU HOBLI
MANDYA DISTRICT-571 430

Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI

Location: HIGH
COURT OF
KARNATAKA

...APPELLANT

(BY SRI. GIRI MALLAIAH.,ADVOCATE)

AND:

1. HDFC ERGO GENERAL INSURANCE COMPANY LTD.,
NO.32, GROUND FLOOR
ACR TOWER, RESIDENCY ROAD
OPPOSITE TO SBI BANK
ASHOKNAGAR,



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BENGALURU - 560 025
BY ITS MANAGER.

2. SRI. BALAJISHINDE
S/O SHAM RAO
MAJOR
(AGED OF RESPONDENT No. 2
NOT KNOWN TO APPELLANT)
RESIDING AT:
SHUBHASANTHI HOUSE
PUTHANANGADI, KOTTAYAM
KERALA - 686 001.

...RESPONDENTS

(BY SRI. D VIJAYA KUMAR.,ADVOCATE FOR R1
V/O DTD. 11.12.2025, NOTICE TO R2 IS D/W)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:06.09.2025
PASSED IN MVC NO.6811/2024 ON THE FILE OF XVIII
ADDITIONAL JUDGE AND ACJM, COURT OF SMALL CAUSES,
BENGALURU 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 SHIVASHANKAR AMARANNAVAR



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ORAL JUDGMENT

1. This appeal is filed by the claimant seeking enhancement of compensation awarded in the judgment and award dated 06.09.2025 passed in MVC No. 6811/2024 by the XVIII Additional Judge, Court of Small Causes and MACT, Bengaluru (SCCH-4).

2. Even though the appeal is listed for admission today, with the consent of the learned counsel appearing for appellant – claimant and learned counsel appearing for respondent No. 1 – Insurer it is taken up for disposal.

3. Appellant – claimant made a claim petition praying to award compensation for the injuries sustained by him in a road traffic accident that occurred on 12.07.2024 due to the rash and negligent driving by the driver of Honda Jazz car bearing registration No. KL-05-AP-2122. The Tribunal after recording evidence, appreciating the evidence on record, assessed the



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compensation and awarded compensation under different heads as under:

1	Loss towards earning capacity/ loss of future income	Rs.4,43,520.00
2	Loss of income during the laid up period	Rs.66,000.00
3	Medical expenses	Rs.14,988.00
4	Future Medical expenses	NIL
5	Conveyance allowance, food nourishment and special diet	Rs.17,000.00
6	Pain and suffering	Rs.30,000.00
7	Loss of enjoyment and loss of amenities of life	Rs.10,000.00
	Total	Rs.5,81,508.00

4. The Tribunal has also awarded interest at the rate of 6% p.a. from date of petition till the date of realization and directed respondent No. 1 – Insurer to deposit the said award amount with interest. Claimant seeking enhancement of the compensation awarded, has filed the present appeal.

5. Heard learned counsel for appellant – claimant and learned counsel for respondent No. 1 – Insurer.



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6. Learned counsel for appellant would contend that claimant was aged 31 years as on the date of accident and he was driver holding Driving License to drive Heavy Goods Vehicle and copy of the said license is at Ex.P.13. He, placing reliance on the judgment of Hon'ble Apex Court in the case of ***Sushila and others Vs. Ram Swaroop and others, 2023 ACJ 2028***, contends that drivers holding license to drive Heavy Goods Vehicle will have income of Rs.20,000/- per month including daily allowances. Therefore he prays for taking the income of the claimant at Rs.20,000/- per month. He further contends that the Tribunal has rightly applied multiplier of 16 since the claimant was aged 31 years and rightly taken disability at 14% based on the evidence of P.W.2 – Doctor and he is not challenging the same. He further contends that the claimant has sustained right proximal humerus fracture. Considering the same, the compensation awarded towards ‘pain and suffering’ and ‘loss of amenities’ are on lower side. He submitted that P.W.2 -



Doctor has stated that the claimant has to undergo operation for removal of implant and cost of the same is Rs.30,000/-. But, the Tribunal has not awarded anything towards 'future medical expenses'. With this, he prayed to allow the appeal.

7. Learned counsel for respondent No.2 – Insurer would contend that the disability taken by the Tribunal is on higher side as the fracture is to the upper limb and the fracture is united. Claimant has taken the benefit of Ayushman Bharat wherein he has shown his income as a zero. Therefore, now he cannot contend that his income is Rs.20,000/-. Claimant has not produced any income proof. Compensation awarded under all heads is just and proper and there are no grounds for enhancement of the compensation.

8. Having heard learned counsel for the parties, this Court has perused the judgment, award and other materials placed on record.



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9. The accident occurred on 12.07.2024 and as on the date of accident claimant was aged 31 years. Ex.P.13 is copy of Driving License of claimant wherein it is stated that he is having license to drive Heave Goods Vehicles. The Tribunal has taken the notional income of the claimant at Rs.16,500/- as no income proof was produced.

10. The Hon'ble Apex Court in the case of **Sushila (supra)** has observed as under:

"5. From the said documents, though they do not refer to the actual salary which was being paid, keeping in view the fact that the accident had occurred in the year 2012 and there was demand for drivers who would drive such heavy-duty vehicles and also the nature of duty involved, even if the salary as stated is stated to be little on exaggerated side, we can still assume it to be Rs.20,000/- per month including daily allowance. If that is done and 40% of the same is awarded towards 'future prospects', the same would in a sum of Rs.28,000/-. 1/4th of the said amount is deducted towards 'personal expenses' and on taking it on annual basis and applying the



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appropriate multiplier of `15', the compensation would be in a sum of Rs.37,80,000/- towards loss of dependency. Towards the `conventional heads' a sum of Rs.70,000/- is awarded. The compensation would be in a sum of Rs.38,50,000/-. The High Court, as noted, has awarded the compensation of Rs.12,98,500/-."

11. Considering the observations made by the Hon'ble Apex Court in the aforesaid decision, even though no income proof is produced income of the driver having license to drive Heavy Goods Vehicle is to be taken at Rs.20,000/- per month. Claimant has not challenged the disability taken by the Tribunal at 14%. The Tribunal has rightly applied multiplier of 16 since the age of claimant was 31 years. Therefore, loss of future income is calculated as under:

$$20000 \times 12 \times 16 \times 14\% = \text{Rs.}5,37,600/-$$

12. Claimant has sustained right proximal humerus fracture. Considering the said fracture sustained by the claimant and that his avocation is driver, compensation



awarded by the Tribunal for 'pain and suffering' in a sum of Rs.30,000/- requires to be enhanced to Rs.40,000/- and 'loss of amenities' in a sum of Rs.10,000/- requires to be enhanced to Rs.20,000/-.

13. The Tribunal has rightly awarded 'loss of income during laid up period' for 4 months. As the income taken now is Rs.20,000/- claimant is entitled to compensation under the head 'loss of income during laid up period' in a sum of Rs.80,000 (Rs.20,000 X 4 months).

14. The Tribunal considering that the claimant was admitted in the hospital for 17 days has rightly awarded attendant and conveyance charges. The Tribunal has also rightly awarded medical expenses.

15. P.W.2 – Doctor has stated that claimant has to undergo surgery for removal of implant and cost of the said surgery will be Rs.30,000/-. The Tribunal has not awarded anything towards 'future medical expenses'.



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Therefore, claimant is entitled to 'future medical expenses' in a sum of Rs.30,000/-.

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

1	Loss towards earning capacity/ loss of future income	Rs.5,37,600.00
2	Loss of income during the laid up period	Rs.80,000.00
3	Medical expenses	Rs.14,988.00
4	Conveyance allowance, food nourishment and special diet	Rs.17,000.00
5	Pain and suffering	Rs.40,000.00
6	Loss of enjoyment and loss of amenities of life	Rs.20,000.00
7	Future medical expenses	Rs.30,000.00
	Total	Rs.7,39,588.00

17. Considering the above claimant is entitled to total compensation of Rs.7,39,588/- as against Rs.5,81,508/- awarded by the Tribunal with interest. Consequently, claimant is entitled to enhanced compensation of Rs.1,58,080/- with interest at the rate of 6% p.a. from date of petition till the date of realization.



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Respondent No.1 – Insurer is liable to pay the said compensation with interest.

18. In view of the above, the following;

ORDER

- a) Appeal is allowed in part.
- b) Appellant - claimant is entitled to enhanced compensation of Rs.1,58,080/- with interest at the rate of 6% p.a. from the date of petition till the date of realization.
- c) Respondent No. 1 – Insurer shall deposit the enhanced compensation with interest before the Tribunal within six weeks from this day.
- d) Appellant - claimant is entitled to release of entire enhanced compensation.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

LRS
List No.: 1 Sl No.: 6
Ct.sm