IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

AND

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

MISCELLANEOUS FIRST APPEAL NO. 7307 OF 2024

(MV-I)

BETWEEN:

THE REGIONAL MANAGER
SHRIRAM GENERAL INSURANCE COMPANY LTD.
NO.5,4, 3RD FLOOR, S V ARCADE
BELEKALHALLI MAIN ROAD
BANNERGHATTA ROAD
IIM POST, BANGALORE 76

Digitally Signed by REKHA R
Location : High Court of Karnataka

...APPELLANT

(BY SRI. B. PRADEEP, ADVOCATE)

AND:

1. K B KRISHNAMURTHY
   S/O S BORAIAH ALIS BOREGOWDA
   AGED ABOUT 59 YEARS
   R/O KUMBENAHALLI VILLAGE
   SHRAVANABELAGOLA HOBLI
   CHANNARAYAPATNA TALUK
   HASSAN DISTRICT 573135

2. MAHADEVI G S
W/O G S RANGASWAMY
AGED ABOUT 35 YEARS
R/O GADDEHOSURU VILLAGE
MUDALAHIPPPE POST
KASABA HOBLI
HOLENARASIPURA TALUK
HASSAN DISTRICT 573211

...RESPONDENTS

(BY SRI. VENKATESH R. BHAGAT, ADVOCATE FOR R1;

V/O DATED 14.07.2023 NOTICE TO R2 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 12.08.2024 PASSED IN MVC NO. 1753/2022 ON THE FILE OF THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, HASSAN, (SIT AT CHANNARAYAPATNA), AWARDING COMPENSATION OF RS. 98,16,000/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL REALIZATION.

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

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE B M SHYAM PRASAD)

This appeal is by the Insurer in M.V.C.No.1753/2022 on the file of the IV Additional District and Sessions Judge, Hassan [for short, '*the Tribunal*']. The Tribunal has awarded to the first respondent [*the claimant who has suffered injuries in a road accident on 24.05.2021, and who is referred to as 'the Claimant'*] a total sum of Rs.98,16,000/- with interest at 6% per annum under the following heads:

Sl. No	***Particulars***	***Amount In (Rs.)***
1.	*Pain and Suffering*	*2,50,000/-*
2.	*Medical Expenses*	*11,78,929/-*
3.	*Loss of future earnings due to disability*	*71,97,120/-*
4.	*Loss of earnings during laid up period*	*5,00,000/-*
5.	*Food, nourishment and other miscellaneous expenses*	*1,50,000/-*

6.	*Attendant Expenses*	*5,40,000/-*
	Total	***98,16,049/- Rounded for 98,16,000/-***

2. On 24.05.2021, the claimant and his sister tested positive for COVID-19, and their mother tested negative; and all three were being shifted to Jayapal Hospital in an ambulance when the ambulance hit a road guard on a highway. If the claimant has filed this claim petition for compensation of Rs.65,00,000/-, his sister has filed another claim petition for compensation. The Tribunal has allowed both these claim petitions holding that the driver of the ambulance was negligent and therefore responsible for the accident overruling the Insurer's defense that the ambulance was falsely implicated.

3. The Insurer has called in question the Tribunal's judgment and award both on the ground of quantum as also calling in question the Tribunal's

finding on the involvement of the ambulance, but it is undisputed that the Insurer, reconciling its defense with the evidence on record, has settled the claim by the claimant's sister. It is in this turn of events that the Insurer confines the grievance in the appeal to the quantum of compensation. Mr. B. Pradeep, the learned counsel for the Insurer, and Mr. Venkatesh R. Bhagat, the learned counsel for the claimant, are heard on whether there must be interference with the compensation awarded by the Tribunal to the claimant.

4. Mr. B. Pradeep submits that he would seek this Court's interference with the Tribunal's finding on the quantum disputing the Tribunal's finding on the claimant's functional disability resulting in the loss of income and the income that is taken by the Tribunal to compute loss of earning capacity. The learned counsel also submits that he would argue for a reconsideration of the

compensation awarded towards loss of earning during the laid-up period and the attendant expenses.

5. ***On the functional disability***. Mr. B. Pradeep submits that the claimant has examined two Doctors *viz.*, an Orthopedic Surgeon and a Neurosurgeon. The Orthopedic surgeon has opined that the petitioner has suffered a permanent disability of 30% and the Neurosurgeon has opined that the claimant has suffered a disability of 80%. The learned counsel argues that in the light of this conflicting evidence, the Tribunal could not have taken the loss of functional disability at 50%. Mr. Venkatesh R. Bhagat, relying upon the Wound Certificate and the different medical documents [*apart from the Doctors ocular evidence*], submits that the material on record discloses that the claimant has a fracture of right femur, a spine injury and a head injury with prolonged hospitalization and that

the Neurosurgeon, who has treated the claimant has, while assessing the permanent disability at 80%, has stated that the claimant suffers from continence and substantial reduced use of upper and lower limb, and as such, the Tribunal is justified in assessing the functional disability at 80%.

5.1 This Court has examined the records to verify whether the Tribunal is justified in its finding that the claimant has a functional disability of 80%. The Tribunal has observed that the claimant was brought to the Court Hall in a wheelchair, that he cannot stand on his own, and that he also needs constant assistance to be around him. The undisputed evidence is that the claimant is an agriculturist with substantial land holdings. The claimant has produced RTC [*the revenue records*] for different lands in his name. This Court opines that if the claimant [*an agriculturist*], at 57, has lost substantial use of his lower and upper left limb and

he is compelled to use a wheelchair with continence, the assessment of functional disability at 80% is not an exaggerated assessment. Therefore, it is concluded that there is no reason to interfere with the Tribunal's finding on the Claimant's functional disability.

6. ***On the assessment of the Claimant's income and computation of loss of future income.*** Mr. B. Pradeep submits that the Tribunal has taken the claimant's monthly income in a sum of Rs.83,300/- and this is based on the claimant's self serving testimony and the documents to show that ***[a]*** he was earning as an LIC agent that ***[b]*** he was the President of Kumbenahalli Milk Production Co-operative Society supplying 35 litres of milk for three years preceding to the accident, and ***[c]*** he was also an active agriculturist growing coconuts/copra and earning a substantial income from the sale of the other cultivation in his name. The learned counsel argues that the Tribunal has failed to consider that

the claimant has not lost income either from the business as an LIC agent or from selling coconut/copra.

6.1 Mr. B. Pradeep emphasizes that Ex. P17 and the TDS certificate show that the claimant has continued to earn under both these heads, and in fact, with an increase. Ultimately, the learned counsel submits that the claimant does not dispute that he continues to draw commissions on the Policies sold prior to the date of the accident or that his income from selling coconut/copra grown has reduced. Mr. Venkatesh R. Bhagat submits that the claimant cannot be expected to file returns disclosing his source of income mostly from agriculturist operations.

6.2 The Tribunal has considered the claimant's evidence on the source of income and has taken the annual income at Rs.10,00,000/- opining it could not have been any less than that and deducing

monthly income at a sum of Rs.88,300/- and computed loss of future earning applying '9' as the multiplier with 80% thereof being taken as the loss of future earning. This Court, on perusal of the voluminous evidence on the extent of the land as owned by the claimant, the Bills submitted for sale of coconut/copra and the TDS certificates on the deduction made towards the commission paid to him, must observe that the claimant had multiple interests and a zest for earning and he was also the President of Kumbenahalli Milk Production Co-operative Society.

6.3 Further, the appellant has definitely not lost his commission from the Policies sold by him earlier and nor can it be said that he has lost his income from dairy farming or horticulture/agriculture, but these cannot overwhelm the fact that he is a wheelchair user. If the claimant pursues his interests, it would be as a person bound

to a wheelchair, which would vastly impact his earning capacity. The Tribunal has taken the claimant's income at Rs.10,00,000/- per annum to arrive at the monthly loss of future earning and applying '9' as the multiplier, but this is based on an overall consideration of the evidence on record without referring to specific numbers.

6.4 It is undisputed that in the case of a victim in a road accident in the year 2021, the notional income is taken at Rs.15,000/- per month, and this would be for unskilled persons. The claimant is shown to be a person with zest pursuing multiple sources of income in dairy farming, horticulture, and agriculture apart from the efforts to earn a commission as an agent for LIC. This must receive due consideration as also the fact that what the claimant has lost is not a complete income but a diminishing in his income. This Court is of the considered view that the claimant's loss of future

earning must be assessed based on a notional income and that must be at Rs.35,000/- per month as it could be almost 2 ½ times more than the notional income of an unskilled labourer.

6.5 The Tribunal has granted no addition towards future prospects, and there must be such an addition as well. The computation of loss of future earning keeping the other parameters, with a multiplier of '9' and permanent functional disability at 80%, he would be entitled for a sum of ***Rs.33,26,400***/-.

Annual Income [Rs.35,000 X 12]	Rs.4,20,000/-
Addition towards Future prospects	10%
Income with future prospects	Rs.4,62,000/-
Disability at 80%	Rs.3,69,600/-
Multiplier	9
Loss of future income	Rs.33,26,400/-

The Tribunal has granted Rs.5,40,000/- towards attendant expenses, Rs.1,50,000/- towards food and nourishment, a sum of Rs.2,50,000/- towards pain

and suffering apart from Rs.11,78,929/- towards medical expenses. This Court is not persuaded to opine that there must be any change in the figures but the claimant is entitled to addition towards loss of amenities in a conservative sum, and this Court is of the view that such sum must be Rs.1,00,000/-. The details of the compensation are as follows:

Particulars	**By the Tribunal**	**By this Court**
Pain and Suffering	Rs.2,50,000/-	Rs.2,50,000/-
Medical Expenses	Rs.11,78,929/-	Rs.11,78,929/-
Loss of future earning due to disability	Rs.71,97,120/-	**Rs.33,26,400/-**
Loss of earning during laid up period	Rs.5,00,000/-	**Rs.2,10,000/-** [35,000/- x 6]
Food, nourishment and other miscellaneous expenses	Rs.1,50,000/-	Rs.1,50,000/-
Attendant Expenses	Rs.5,40,000/-	Rs.5,40,000/-
Loss of Amenities	-	**Rs.1,00,000/-**
Total	Rs.98,16,049/- Rounded off at Rs.98,16,000/-	**Rs.57,55,329/-**
Reduced		**Rs.40,60,671/-**

ORDER

a. The appeal is allowed modifying the Tribunal's judgement and award dated 12.08.2024 in M.V.C.No.1753/2024 confining the compensation to the claimant in a sum of **Rs.57,55,329/-** with interest at the rate of 6% per annum.

b. The appellant - Insurer shall transfer the statutory deposit within six [6] weeks from today.

c. The Registry is directed to transmit the trial Court records expeditiously.

Sd/-
(B M SHYAM PRASAD)
JUDGE

Sd/-
(T.M. NADAF)
JUDGE

RB