HC-KAR

NC: 2026:KHC:1763
MFA No. 362 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 362 OF 2024 (MV-I)

BETWEEN:

MR.G. MOHAMMED ALTAF,
S/O MD AZEEM SAB,
NOW AGED ABOUT 30 YEARS,
R/AT NO 7, HOSUR MAIN ROAD,
CHIKKABEGUR ROAD,
KUDLU GATE, KUDLU,
BANGALORE-560 068.

…APPELLANT

(BY SRI. RANGEGOWDA N R., ADVOCATE)

AND:

1. ICICI LOMBARD GENERAL INSURANCE
COMPANY LIMITED,
NO 121, 9TH FLOOR, THE ESTATE BUILDING,
DICKENSON ROAD, M G ROAD,
BANGALORE-560 042.

2. MR PALANI N
AGED MAJOR,
R/AT NO 88, CHIKKABEGUR GATE,
G B PALYA, BOMMANAHALLI,
BANGALORE-560 068.

…RESPONDENTS

(BY SRI. PRADEEP B., ADVOCATE FOR R1,
V/O DTD:05.03.2025, NOTICE TO R2 IS D/W)

Digitally signed by PADMASHREE SHEKHAR DESAI
Location: High Court Of Karnatka

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.04.10.2023 PASSED IN MVC NO.4857/2020 ON THE FILE OF THE VII ADDITIONAL SMALL

CAUSE JUDGE AND ACMM, MEMBER, MACT-3, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

ORAL JUDGMENT

This appeal is filed by the appellant/claimant under Section 173(1) of Motor Vehicles Act, 1988 challenging the judgment and award dated 04.10.2023 passed in MVC No.4857/2020 on the file of the VII Addl. SCJ and ACMM, Member, MACT-3, Bengaluru for enhancing the compensation.

2. Heard the arguments of the learned counsel for the appellant and learned counsel for respondent No.1. The ranks of the parties are retained as per tribunal for the sake of convenience.

3. The injured claimant aged 30 years met with an accident on 20.11.2020 and filed claim petition claiming compensation for Rs.30 lakhs. The tribunal considering entire evidence on record, granted an amount of

Rs.2,35,358/- along with the interest at the rate of 6% p.a., (granted out of Rs.2,94,198/- as compensation, by fixing the remaining amount of Rs.58,840/- liable to be borne by the petitioner towards 20% of contributory negligence) from the date of petition till the date of realization.

4. Aggrieved by the said order, this appeal is preferred, in which it is contended that the Tribunal has considered 20% contributory negligence on the part of the appellant and the police filed charge sheet against the rider of the motor cycle. Therefore, it is to be set aside. It is further stated that meager compensation was granted by the tribunal and amount granted under other heads are meager. They have examined the doctor as PW2 and he assessed the disability as 25% to the whole body. Further, requested to enhance the interest from 6% to 9%.

5. It is further contended that while petitioner was crossing the road, a two wheeler bearing registration

No.KA-51-EP-4370 came in a rash and negligent manner and dashed him. The tribunal considered 20% contributory negligence on the part of the injured/claimant and the charge sheet is filed against the rider of the motor cycle. As per the sketch, it was a service road and it is not the case of the claimant that he was crossing the road in a drunken condition. Therefore, the contributory negligence assessed by the Tribunal is erroneous and is set aside. The Insurance Company is alone liable to pay compensation.

6. On perusal of the record, this matter was referred to the Medical Board but the appellant could not appear before the Tribunal**.** As already the petitioner has examined the doctor before the Tribunal, hence this court finds it reasonable to consider the evidence of the doctor regarding disability. The petitioner stated that he was earning Rs.20,000/- per month as Sales Boy and Tailor, but he has not filed any income proof. As the petitioner met with an accident in the year 2020, his notional income

is to be taken as Rs.**14,500/-** as per the guidelines of Karnataka State Legal Service Authority. He was 30 years and the multiplier applied is 17.

7. As per the evidence of PW2, petitioner sustained the following injuries, left fronto temporal and left parietal contusion, left gangilo capsular contusion, left temporal extra dural hematoma/subdural hematoma and cerebral edema. Currently he has frequent headaches, giddiness and also complained of impaired memory and impaired intelligence. On examination, it was revealed a conscious patient with cognitive and memory deficits. He walks with a limp. He has scars over right eyebrow and right leg. Neuro-psychological assessment was done which shows the petitioner obtained an IQ of 74. He is below average in thinking and reasoning. His frontal and parietal lobes were inadequate in functioning. His ideas score was 7 indicating a disability of 40-70%. MMSE was done and petitioner obtained a score of 18/30 which is low. The injuries sustained are grevious in

nature. Finally, his disability was assessed as 25% to the whole body. Therefore, this court finds it reasonable to take the disability assessed by the doctor as 25%. Hence, loss of the Future Earning Capacity comes to Rs.14,500 x 12 x 17 x 25% =**Rs.7,39,500/-.** The Tribunal granted **Rs.2,29,198**/- as per the relevant material before the court and this court finds no reason to interfere with the said amount. He was hospitalized for 17 days, hence considering his age, nature of injuries, period of hospitalisation and other relevant factors, this court finds it reasonable to grant an amount **Rs.15,000/-** for pain and suffering, **Rs.25,000/-** for loss of amenities, **Rs.30,000/-** for transportation and attendant charges and extra nourishment. He might not have attended any other work at least for a period of 3 months. Therefore, loss of income during laid up period comes to Rs.14,500 X 3 = **Rs.43,500/-.**

8. Thus in all, components awarded by this court are as below,

Sl.Nos.	Particulars	Amount in Rs.
1	Towards loss of future income	7,39,500
2	Towards pain and suffering	15,000
3	Towards loss of amenities	25,000
4	Towards transportation and attendant charges and extra nourishment	30,000
5	Towards loss of income during laid	43,500
6	Towards medical expenses	2,29,198
	Total	**10,82,198**

Hence, the appellant-claimant is entitled for a total enhanced compensation of **Rs.10,82,198/-** along with interest at the rate of 6% p.a.

9. In the result, the following order is passed:

ORDER

i. Appeal is ***allowed*** in part.

ii. The judgment and award dated 04.10.2023 passed in MVC No.4857/2020

on the file of the VII Addl. SCJ and ACMM, Member, MACT-3, Bengaluru**,** is modified.

iii. The claimant is entitled to a sum of **Rs.10,82,198/-** along with interest at 6% p.a., from the date of petition till the date of realization, instead of Rs.2,35,358/- granted by the tribunal.

iv. Respondent No.1/Insurance Company has already deposited the awarded amount before the tribunal. Therefore, respondent No.1/Insurance Company is directed to deposit the enhanced compensation of **Rs.8,46,840/-** along with the interest at the rate of 6% within one month from the date of this order.

v. On such deposit, petitioner is permitted to withdraw the entire amount along with interest accrued on the same.

vi. Registry is directed to return the Trial Court records to the Tribunal, along with certified copy of the order passed by this Court.

Sd/-
(P SREE SUDHA)
JUDGE

AKV
CT:NR
List No.: 1 Sl No.: 85