HC-KAR

NC: 2026:KHC:60516
MFA No. 191 of 2019

CNR: KAHC010096792019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE N.V.BHAVANI

MISCELLANEOUS FIRST APPEAL NO. 191 OF 2019 (MV-I)

BETWEEN:

SRI. MUNIKRISHNA
S/O. LATE MUNIYAPPA,
AGED ABOUT 45 YEARS,
R/AT BANNERGHATTA ROAD,
C. K. PALYA, SAKALAWARA,
ANEKAL, BENGALURU – 560 083.

…APPELLANT

(BY SRI. KALYAN R.,ADVOCATE)

AND:

1. NEW INDIA ASSURANCE CO. LTD.,
   T. P. HUB, MAHALAKSHMI CHAMBERS,
   M. G. ROAD, BENGALURU – 560 001.

Digitally signed by YASHODA K L
Location: HIGH COURT OF KARNATAKA

2. G. JAYAPRAKASH
   S/O GOVINDAN,
   AGED MAJOR,
   R/AT NO.38,
   VIGNESHWARA NAGARA,
   ATTIBELE VILLAGE,
   ANEKAL TALUK,
   BENGALURU – 562 107.

…RESPONDENTS

(BY SRI. VRUSHABHENDRIAH H.C, FOR
SRI. LINGARAJ H S, ADVOCATES FOR R1;
V/O DATED 21.06.2022 NOTICE TO R2 IS D/W)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 20.03.2018 PASSED IN MVC

NO.532/2017 ON THE FILE OF THE XXI ADDITIONAL SCJ XIX ACMM, MEMBER, MACT, BENGALURU SCCH-23, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MRS. JUSTICE N.V.BHAVANI

CAV JUDGMENT

This is the appeal filed under Section 173(1) of the Motor Vehicles Act, 1988[1] by the claimant/petitioner i.e., appellant herein in MVC No.532/2017 challenging the judgment and award dated 20.03.2018 on the file of the Court of Small Causes Judge and MACT, Bangalore[2].

2. The parties are referred to as per their rankings before the Tribunal for the sake of convenience.

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

It is case of the claimant/appellant that on 18.12.2026 at about 10.15 p.m., he was standing near

[1] for short 'MV Act'
[2] for short 'the Tribunal'

Huskur gate, Bangalore-Hosur NH-07 Road, to cross the road. At that time, all of a sudden, a car bearing No.KA-51 C-8818 being driven by its driver in a rash and negligent manner with high speed came from Bangalore side and dashed against the claimant/appellant. As a result of which he sustained grievous injuries, immediately after the accident he was shifted to Venkateshwara Hospital, then he was shifted to other hospital and treated as in-patient. The police have registered the case against the driver of the offending vehicle and filed charge sheet.

4. It is submitted that the respondent No.1 is the insurer and the respondent No.2 is the owner of the vehicle involved in the accident. After recording the evidence of parties, the Tribunal allowed the claim in part and fixed 20% contributory negligence on the part of the appellant. Being aggrieved by the aforesaid judgment and award, the appellant has preferred this appeal on the ground that the Tribunal erred in computing the income of

the appellant, fixed the disability to the whole body to the contrary to the evidence of the expert and reduced the compensation by fixing the contributory negligence on the part of the appellant. Hence, this appeal.

5. Heard Sri.Kalyan R, learned counsel for the claimant/appellant and Sri.Vrushabhendraiah H.C., learned counsel for the respondent No.1/insurance company. Notice to respondent No.2 is dispensed with vide order dated 21.06.2022.

6. Learned counsel for the claimant/appellant herein has contended that the Tribunal has assessed the disability contrary to the evidence of the expert and fixed the notional income at Rs.8,000/- per month, without even considering the notional income fixed by the Karnataka State Legal Services Authority (KSLSA) for the year 2016, which was Rs.9,500/- per month and no fault on the part of the claimant, the contributory negligence is fixed and compensation awarded is deducted. Further, learned

counsel submitted that the compensation awarded under the conventional heads is on the lower side and prayed for enhancement of the compensation by allowing the appeal.

7. On the other hand, learned counsel for the respondent No.1/insurance company has fairly admitted that the notional income fixed by KSLSA is higher than the amount fixed by the Tribunal, but there is no document to prove the income of the petitioner. Therefore, the judgment and award passed by the Tribunal is just and proper and does not call for any interference. Hence, sought for dismissal of the appeal.

8. Having considered the rival submissions, this Court has perused the entire appeal papers and trial court records.

9. Considering the rival arguments and material on record, admittedly, the accident has occurred on 18.12.2016 and the notional income for the year 2016 is

considered as Rs.9,500/- per month as per the notification of Karnataka State Legal Services Authority (KSLSA). In such circumstances, the Tribunal erred in fixing the income at Rs.8,000/- per month and the same requires reconsideration as the claimant was working as a driver by fixing the income at Rs.10,000/- per month.

10. Now coming to the compensation awarded under the head of 'loss of future income due to disability' is concerned, PW2 – Dr.B.Ramesh has assessed the physical disability of the injured at 37% to the right upper limb, 13% disability to the whole body, 3% of whole body due to pubic fracture and totally 16% disability to the whole body and the same is based on the clinical examination. During the course of his cross examination nothing is elicited except putting suggestion. Considering the testimony of PW2 coupled with the nature of disability on the restriction of joint movement of right shoulder and the avocation of the injured as a driver, it is just and

necessary to fix the disability at 20% to the whole body. Accordingly, this Court enhances the compensation awarded under head of 'loss of future income due to disability' from Rs.1,24,800/- to Rs.3,12,000/- (Rs.10,000/- x 12 x 13 x 20%).

11. Now coming to the compensation awarded under other heads are concerned, the claimant/appellant was hospitalized for 10 days and sustained grievous injuries of right pubic ramus, fracture right neck of humerus, fracture of 9th rib right side, lung contusion, head injury and other injuries all over the body. Due to which, he had to undergo pain and sufferings and requires complete bed rest at least for the period of 3 months, which the Tribunal failed to consider. Therefore, the compensation awarded under all heads requires reconsideration except under medical expenses and future medical expenses. Accordingly, this Court reassesses the compensation as under:

Sl. No.	Particulars	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Loss of future income due to disability	Rs. 1,24,800/-	Rs.3,12,000/- (Rs.10,000/- x 12 x 13 x 20%)
2	Medical expenses	Rs.1,40,218/-	Rs. 1,40,218/-
3	Pain and suffering	Rs.40,000/-	Rs.1,00,000/-
4	Loss of amenities and happiness in life	Rs.10,000/-	Rs.30,000/-
5	Food, nourishment, conveyance and attendant charges during treatment	Rs.20,000/-	Rs.30,000/-
6	Future medical expenses	Rs.10,000/-	Rs.10,000/-
	TOTAL	**Rs.3,45,018/-**	**Rs.6,22,218/-**

12. Now coming to the contributory negligence is concerned, the police record reveals that the appellant was standing on the tar road and considering the said aspect the Tribunal has rightly held that there is a contributory negligence on the part of the appellant by fixing the ratio at 80:20 and the same does not require any interference.

13. Accordingly, the petitioner is entitled for enhanced compensation to the extent of 80% of Rs.6,22,218/- i.e., Rs.4,97,774.4, which is rounded off to Rs.4,98,000/-, which shall carry interest @ 6% p.a. from

the date of petition till realization excluding the period of delay of 188 days in preferring the appeal.

14. For the aforesaid reasons, this Court proceeds to pass the following:

ORDER

(i) The appeal is ***allowed in part***.

(ii) The judgment and award dated 20.03.2018 passed in MVC No.532/2017 by the XXI Addl. Small Causes Judge and the Motor Accident Claims Tribunal, Bengaluru (SCCH-23), is hereby modified and the petitioner/appellant is entitled to total compensation of Rs.4,98,000/- along with interest @ 6% p.a. from the date of petition till realization excluding the period of delay of 188 days in preferring the appeal.

(iii) The respondent No.1/insurance company shall deposit the enhanced compensation

before the concerned Tribunal within an outer limit of six weeks from the date of receipt of certified copy of this order.

(iv) Upon deposit, the entire amount shall be released in favour of the petitioner/appellant forthwith on due identification.

(v) Trial court records secured, if any, shall be retransmitted to the concerned Tribunal forthwith without causing any delay.

(vi) No order as to costs.

SD/-
(N.V.BHAVANI)
JUDGE

DR
List No.: 1 Sl No.: 23