IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

MISCELLANEOUS FIRST APPEAL No. 1417 OF 2023 (MV-I)

BETWEEN:

1. SRI SWAMY,
   S/O THIMMEGOWDA,
   AGED ABOUT 45 YEARS,
   R/O ADIKEKERE HOSUR VILLAGE,
   KASABA HOBLI,
   HOLENARASIPURA TALUK,
   HASSAN DISTRICT-571211.
   PRESETLY R/AT
   C/O RAJESH,
   S/O CHANDRE GOWDA,
   MEGALAKERI, RAMA MANDIRA ROAD,
   WARD No.15, CHANNARAYAPATNA TALUK,
   HASSAN DISTRICT-573116.

...APPELLANT

(BY SRI H.D. SOMESHA, ADVOCATE FOR
SRI RAJARAM SOORYAMBAIL, ADVOCATE)

Digitally signed by VALLI MARIMUTHU
Location: HIGH COURT OF KARNATAKA

AND:

1. NAGARAJU P.,
   S/O PUTTASWAMYGOWDA M. C.,
   R/O 2ND MAIN ROAD, 1ST A CROSS
   RAJKUMAR LAYOUT,
   SHIVAPURA, MADDUR TOWN AND TALUK,
   MANDYA DISTRICT-571428.

2. THE MANAGER,
HDFC ERGO GENERAL INSURANCE CO. LTD.,
MYSORE TRADING CENTER
OPPOSITE KSRTC BUS STAND
B. N. ROAD, MYSORE-01
(POLICY No.2315203448303300002
VALID FROM 08.07.2020 TO 07.07.2021)

…RESPONDENTS

(BY SRI H.S. LINGARAJU, ADVOCATE FOR R2;
R1 SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 25.10.2022 PASSED IN MVC No.1456/2021 ON THE FILE OF THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, HASSAN SITTING AT CHANNARAYAPATNA, HASSAN, 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 MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE K.V. ARAVIND)

Heard Sri H.D. Somesha, learned counsel for Sri Rajaram Sooryambail, learned counsel for the appellant-claimant and Sri H.S. Lingaraju, learned counsel for respondent No.2-Insurer.

2. This appeal is filed by the claimant in M.V.C. No.1456/2021, calling in question the judgment and award dated 25.10.2022 passed by the IV Additional District and Sessions Judge, Channarayapatna, Hassan[1].

3. On 07.04.2021, the claimant, while travelling on a motorcycle bearing Regn. No. KA-13-EN-6958, met with an accident involving a goods canter lorry bearing Regn. No. KA-55-8070. The accident occurred due to the rash and negligent driving of the offending lorry, as a result of which one Shettigowda lost his life and the claimant sustained injuries.

3.1 It is stated that the claimant was treated as an inpatient and incurred medical expenses exceeding ₹4,00,000/- towards his treatment. It is further stated that the claimant was earning ₹30,000/- per month from agricultural activities and dairy farming. It is contended that, on account of the injuries sustained in the accident, the claimant has suffered permanent disability and is no longer in a position to carry on his avocation or perform work as he was doing prior to the accident.

[1] Tribunal

3.2 Respondent No.2–Insurer, after service of notice, filed its statement of objections denying the averments made in the claim petition. It is contended that the driver of the offending lorry was not holding a valid and effective driving license as on the date of the accident. It is further contended that respondent No.1 has violated the terms and conditions of the insurance policy and, therefore, respondent No.2 is not liable to indemnify respondent No.1–owner.

3.3 The petitioner examined himself as PW.2 and marked thirty four documents as Exs.P.1 to P.34. The Court examined CW.1 and marked ten documents as Exs.C.1 to C.10.

3.4 The Tribunal, having regard to the nature of injuries sustained, the duration of treatment and the avocation of the claimant, awarded compensation under the heads of pain and suffering, medical expenses, loss of income during laid-up period, loss of future earnings, and food, nourishment and transportation charges. The Tribunal awarded a total compensation of ₹3,02,000/-.

4. Sri H.D. Somesha, learned counsel for Sri Rajaram Sooryambail, learned counsel appearing for the appellant–claimant submits that the claimant has suffered four injuries, including a head injury, and that the compensation awarded under the head of pain and suffering is on the lower side. Learned counsel further submits that the Tribunal, while awarding compensation towards pain and suffering, has failed to properly appreciate the nature of the treatment undergone and the pain endured by the claimant.

4.1 It is further submitted that the compensation awarded towards medical expenses and loss of future earnings is also inadequate. Learned counsel additionally contends that the compensation awarded towards loss of income during laid-up period is on the lower side.

5. Sri H.S. Lingaraju, learned counsel appearing for respondent No.2–Insurer, submits that the compensation awarded under the various heads is based on the evidence on record and does not call for any interference.

6. Considered the submissions of learned counsel for the parties and perused the record.

7. The occurrence of the accident, the injuries sustained, the involvement of the offending vehicle, and the liability of the insurer are not in dispute. The Tribunal, having regard to the nature of the injuries and the assessed disability of 14% to the right lower limb and 6% to the facial region, including facial bone fracture, has awarded a sum of ₹50,000/- towards pain and suffering. The Tribunal has appropriately assessed the compensation under this head based on the evidence on record. No interference is called for with respect to the compensation awarded under this head.

8. Insofar as the medical expenses are concerned, the compensation awarded by the Tribunal is based on the medical bills produced by the claimant. Hence, no further enhancement is warranted under this head.

9. The Tribunal has awarded a sum of ₹15,000/- towards loss of income during laid-up period. The claimant was treated as an inpatient from 08.04.2021 to 14.04.2021. Having

regard to the nature of the injuries sustained and the treatment undergone, the claimant would reasonably require at least one additional month of rest. The Tribunal has erred in not taking this aspect into consideration. Accordingly, the compensation awarded under the head of loss of income during laid-up period is inadequate and is enhanced to ₹30,000/-.

10. The Tribunal, considering that the claimant was admitted to the hospital for six days and underwent follow-up treatment thereafter, awarded a sum of ₹10,000/- under the head of food, nourishment and other miscellaneous expenses. Having regard to the period of inpatient treatment as well as the follow-up treatment, we deem it appropriate to enhance the compensation under this head to ₹20,000/-.

11. The Tribunal has committed an error in not awarding any compensation under the head of loss of amenities. Having regard to the percentage of disability assessed and the nature of injuries sustained, the claimant would be deprived of certain amenities of life. Accordingly, we deem it appropriate to award a sum of ₹25,000/- under the head of loss of amenities. The compensation awarded under the other heads is retained.

11.1 Thus, the compensation awarded by the Tribunal stands modified as under:

Sl. No.	Particulars	Compensation awarded (Rs.)	Compensation modified (Rs.)
1.	Pain and suffering	50,000/-	50,000/-
2.	Medical expenses	1,50,810/-	1,50,810/-
3.	Loss of future earnings	75,600/-	75,600/-
4.	Loss of income during laid-up period.	15,000/-	30,000/- (15,000+15,000)
5.	Food, nourishment and other miscellaneous expenses	10,000/-	20,000/- (10,000+10,000)
6.	Loss of amenities	-	25,000/-
	Total	**3,02,000/-**	**3,51,410/-**
	Enhanced compensation		**49,410/-**

12. For the foregoing reasons, the following;

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

(ii) The appellant–claimant is entitled to a total compensation of ₹3,51,410/- along with interest at the rate of 6% per annum from the date of the petition till realisation, as against the compensation of ₹3,02,000/- awarded by the Tribunal. Consequently, the appellant–claimant is entitled to an enhanced compensation of ₹49,410/-.

(iii) The enhanced compensation shall be deposited within four weeks.

(iv) The judgment and award of the Tribunal in respect of deposit and release of the compensation amount payable to the appellant-claimant remains unaltered.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE

MV
List No.: 1 Sl No.: 34