NC: 2026:KHC:20741
MFA No. 1274 of 2025

HC-KAR

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 16TH DAY OF APRIL, 2026**

**BEFORE**

**THE HON'BLE MRS. JUSTICE P SREE SUDHA**

**MISCELLANEOUS FIRST APPEAL NO. 1274 OF 2025 (MV-I)**

**BETWEEN:**

MR. MAHESH K
S/O K. KARUNAKAR,
AGED ABOUT 27 YEARS,
R/AT NO.30, 7TH CROSS,
RAJAGOPAL NAGARA,
PEENYA 2ND STAGE,
NEAR NLS SCHOOL,
BENGALURU - 560 058.

...APPELLANT

(BY SRI. K.V. NAIK, ADVOCATE)

**AND:**

1. THE MANAGER
TATA AIG GENERAL INSURANCE CO. LTD.,
2ND FLOOR, N.69, JP AND
JUMBUKESHWARA ARCADE,
MILLERS ROAD,
BENGALURU - 560 052
POLICY NO.064001/ABIL/3205069999/000000/00
PERIOD OF INSURANCE FROM
03-01-2022 TO 02-01-2027.

2. MR. PAVAN KUMAR M.N,
S/O NAGESH RAO M.L,
MAJOR,

Digitally signed by PADMASHREE SHEKHAR DESAI
Location: High Court of Karnataka

R/AT KRISHNA TEMPLE ROAD,
NEAR ANU STORE,
DODDABOMMASANDRA,
VIDYARANYAPURA,
BENGALURU - 560 097.

…RESPONDENTS

(BY SRI. MALLIKARJUNA REDDY N.A, ADVOCATE FOR
SRI. B. PRADEEP, ADVOCATE FOR R1;
VIDE ORDER DATED 16.04.2026, NOTICE TO R2
DISPENSED WITH)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.21.09.2024 PASSED IN MVC NO.3890/2022 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES, MEMBER, PRL. MACT, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

**ORAL JUDGMENT**

Heard the arguments of both sides.

2. This appeal is filed under Section 173(1) of Motor Vehicles Act, 1988, challenging the judgment and award dated 21.09.2024 passed in MVC No.3890/2022, by

the Chief Judge Court of Small Causes and Member Principal, MACT, Bengaluru (hereinafter referred to as 'the Tribunal') seeking enhancement of compensation.

3. The injured claimant met with road traffic accident on 28.06.2022 and filed a claim petition seeking compensation of Rs.10,00,000/-. The Tribunal, after considering the evidence on record granted an amount of Rs.1,53,291/- with interest at the rate of 6% per annum from the date of petition till realisation.

4. Aggrieved by the said order, the appellant has preferred this appeal, contended that he sustained fracture injuries and was admitted in the hospital as an inpatient for seven days, but the Tribunal granted a meager amount under various heads. It is further contended that he requires another surgery for removal of implants, estimated cost of the same as Rs.40,000/-, but the Tribunal has not granted any amount under the head of future medical expenses or loss of future earning capacity.

Therefore, requested for enhancement of the compensation.

5. Though learned counsel for the appellant submitted that he was working as an electrician and earning Rs.30,000/- per month, no proof income has been produced. As the accident occurred in the year 2022, his notional income is taken at Rs.15,500/- per month as per the chart prepared by the Karnataka State Legal Services Authority. The appellant was aged 24 years at the time of the accident and the appropriate multiplier is '18'.

6. Ex.P-5 is the wound certificate and Ex.P-7 is the discharge summary. The appellant also examined PW-2, an Orthopaedic surgeon, who stated that the appellant sustained the following injuries:

> " He underwent surgery in the form of ORIF with clavicular plating. He complains of pain and difficulty in using his right upper limb for activities of daily living. He reports inability to lift weight and perform overhead activities."

On examination:

i. Wasting of the right shoulder girdle and right upper limb is noted.

ii. Surgical and secondary scars are present over the right clavicle.

The doctor assessed permanent disability of the right upper limb at 30% and whole body disability at 15%. He further stated that the appellant requires another surgery for removal of implants, estimated at Rs.40,000/-.

7. In cross-examination, the doctor admitted that he had not issued a disability certificate and that he was not treated doctor. He further stated that, except for the clavicle fracture, no other fracture was sustained. Though there was AC joint dislocation, it was not mentioned in the discharge summary and was treated conservatively. There is restriction of shoulder movement to the extent of 5%, while the wrist and elbow are normal. Physiotherapy was advised. He also stated that the clavicle is not a major bone but provides support to the shoulder joint, and that

he assessed only physical disability. The cost of implant removal surgery would be approximately Rs.15,000/- to Rs.20,000/-.

8. The Tribunal did not award any amount under the head of loss of future earning capacity on the ground that the doctor was not the treated doctor. However, it is undisputed that the appellant sustained a fracture and examined a doctor before the Court. Considering the medical evidence on record, this Court finds it reasonable to assess disability at one-third of 30%, i.e., 10% to the whole body. Accordingly, the loss of future earning capacity comes to Rs.15,500/- x 12 x 18 x 10% = Rs.3,34,800/-.

9. The Tribunal awarded Rs.11,291/- towards medical expenses as per Ex.P-9, which is confirmed**.** The appellant was hospitalized for a period of seven days. Considering the nature of injuries, period of hospitalisation and other relevant factors, this Court finds it reasonable to award Rs.40,000/- towards pain and suffering,

Rs.20,000/- towards loss of amenities, and Rs.30,000/- towards transportation, extra nourishment and attendant charges. The Tribunal has already awarded Rs.62,000/- towards loss of income during the laid-up period of four months, which is confirmed. Based on the medical evidence, this Court finds it reasonable to award a sum of Rs.20,000/- towards future medical expenses.

10. Thus, the compensation awarded by this Court is as follows:

| **Particulars** | **Amount in Rs.** |
|---|---|
| Loss of future earning capacity | 3,34,800.00 |
| Pain and suffering | 40,000.00 |
| Loss of amenities | 20,000.00 |
| Transportation, extra nourishment and attendant charges | 30,000.00 |
| Medical expenses | 11,291.00 |
| Loss of income during laid up period | 62,000.00 |
| Future medical expenses | 20,000.00 |
| **Total** | **5,18,091.00** |

11. The appellant/claimant is entitled to a total compensation of Rs.5,18,091/- as against Rs.1,53,291/- awarded by the Tribunal. The enhanced compensation

works out to Rs.3,64,800/-. To this extent, the award passed by the Tribunal is modified.

12. In the result, pass the following:

**ORDER**

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

ii. The judgment and award dated 21.09.2024 passed in MVC No.3890/2022, by the Chief Judge Court of Small Causes and Member Principal, MACT, Bengaluru, is hereby modified;

iii. The appellant-claimant is entitled to enhanced compensation of Rs.3,64,800/- with interest at the rate of 6% per annum from the date of petition till its realization.

iv. Respondent No.1/Insurance Company has already deposited the awarded amount before the Tribunal. Therefore, Insurance Company is directed to deposit enhanced compensation of Rs.3,64,800/- with

interest rate of 6% within one month from the date of this order.

v. On such deposit, the appellant/claimant is permitted to withdraw the entire amount along with interest accrued on it.

**Sd/-**
**(P SREE SUDHA)**
**JUDGE**

TMP
List No.: 1 Sl No.: 9