HC-KAR

NC: 2026:KHC:59700
MFA No. 4095 of 2021

CNR: KAHC010266392020

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

**DATED THIS THE 28TH DAY OF OCTOBER, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE S RACHAIAH**

**MISCELLANEOUS FIRST APPEAL NO. 4095 OF 2021**

**(MV-I)**

**BETWEEN:**

SMT. MEENAKSHI K.,
W/O VINAYAK V. S.,
AGED ABOUT 38 YEARS,
R/AT NO.20, TULASI NILAYA,
2ND CROSS, SBM COLONY,
BRINDAVAN NAGAR, MATHIKERE
BENGALURU - 560 054.

...APPELLANT

(BY SRI. JAGADEESH H. T., ADVOCATE)

Digitally signed by SUSHMA LAKSHMI B S
Location: High Court of Karnataka

**AND:**

1. ABHISHEK SINGH,
S/O R. S. THATHORE,
AGED MAJOR,
NO.F-16,
FORTUNA CLASSIC APARTMENT,
CANARA BANK LAYOUT,
SAHAKARANAGAR, HEBBAL POST,

BENGALURU – 560 092.

2. ICICI LOMBARD GENERAL
INSURANCE COMPANY LTD.,
NO.121, THE ESTATE,
9TH FLOOR, DICKENSON ROAD,
M.G.ROAD,
BENGALURU – 560 042.

…RESPONDENTS

(BY SRI. B. PRADEEP., ADVOCATE FOR R2;
NOTICE TO R1 IS D/W, V/O DATED 25.05.2026)

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THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 09.09.2019, PASSED IN MVC.NO.3263/2018, ON THE FILE OF THE MEMBER, M.A.C.T., XVI ADDITIONAL JUDGE, COURT OF SMALL CAUSES, BENGALURU (SCCH-14), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE S RACHAIAH

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**ORAL JUDGMENT**

The appellant is before this Court seeking enhancement of compensation and also to set aside the contributory negligence fastened upon the appellant, being aggrieved by the judgment and award dated 09.09.2019 passed in MVC.No.3263/2018 on the file of MACT, Bangalore (SCCH-14).

**Brief facts of the case:**

2. The petitioner is a practicing advocate. On 14.04.2018, at about 08.45 p.m., when the petitioner was travelling as a pillion rider on the scooter bearing registration No.KA-41/EG-2736, the said scooter was being driven by her husband. In the meantime, a car bearing registration No.KA-51-M-2749 was driven by its driver in a high speed, rash and negligent manner and dashed the scooter from behind. As a result, the petitioner and her husband were thrown out from their vehicle. The appellant sustained severe injuries and the motorcycle was also damaged extensively. Immediately after the incident, the appellant was shifted to hospital for treatment. After obtaining the treatment, a claim petition was filed before

the Tribunal. The Tribunal awarded a sum of ₹2,90,300/- with interest at the rate of 7% per annum.

3. The submission of the learned counsel for the appellant is that the Tribunal has committed error in considering their disability. The doctor clearly deposed that the physical disability of 9% to the whole body. However, the Tribunal considered only 7%, which is arbitrary and required to be enhanced. It is further submitted that the Tribunal has committed error in considering and fixing the contributory negligence of 15%. It is a misconception of fact, in fact, the appellant was moving on the scooter as a pillion rider. Hence, fixing the contributory negligence on the appellant would not arise. However, the Tribunal has committed error. Therefore, the appeal is to be set aside. Making such submissions, the learned counsel for the appellant prays to allow the petition.

4. *Per contra*, Sri.B.Pradeep, learned counsel for respondent No.2 vehemently justified the judgment and award passed by the Tribunal and submitted that the Tribunal after assessing the material available on record and also the evidence, awarded the compensation, which is just and fair.

There is no necessity to enhance the compensation as prayed in the appeal. Making such submissions, learned counsel for respondent No.2 prays to dismiss the appeal.

5. Having heard the learned counsel for the respective parties and also on perusal of the findings of the Tribunal in fixing the contributory negligence has arrived at a wrong conclusion for the reason that the appellant was a pillion rider and she was moving along with her husband and her husband was riding the motorcycle. If the husband commits a mistake, she is not held responsible for the said act. Therefore, it requires to be set aside. As regards the quantum of compensation is concerned, even though the doctor has opined that the physical disability at 9% to the whole body, the Tribunal has considered only 7%, which requires to be enhanced and loss of future earnings recalculated as under:

Rs.15,000/- X 12 X 15 X 9% = Rs.2,43,000/-

6. As regards pain and suffering is concerned, the appellant has suffered right foot planter aspect avulsion injury with 5$^{th}$ metatarsal fracture. The loss of income during period of

treatment and suffering is concerned. Having considered the nature of injury and fracture, it needs to be enhanced to the extent of another Rs.20,000/-, which comes around Rs.50,000/- under the head of pain and suffering.

7. Consequently, the award of the Tribunal is modified and the claimant / appellant would be entitled to the compensation as under:-

| Sl. No. | Particulars | Award amount (in Rupees) | |
|---|---|---|---|
| | | Tribunal | This Court |
| 01 | Pain and suffering | 30,000/- | 50,000/- |
| 02 | Food and nourishment, conveyance and attendant charges | 10,000/- | 10,000/- |
| 03 | Medical expenses | 27,500/- | 27,500/- |
| 04 | Loss of income during the period of treatment | 45,000/- | 45,000/- |
| 05 | Loss of future earnings | 1,89,000/- | 2,43,000/- |
| 06 | Loss of amenities | 40,000/- | 40,000/- |
| | TOTAL | 3,41,500/- | 4,15,500/- |

8. In the light of the observations made above, I proceed to pass the following:-

**ORDER**

i) The appeal is *allowed in part.*

ii) The judgment and award dated 09.09.2019 passed in MVC.No.3263/2018 on the file of MACT, Bangalore (SCCH-14), is modified granting compensation of Rs.4,15,500/- as against Rs.2,90,300/- awarded by the Tribunal by considering contributory negligence on the appellant.

iii) The claimant is entitled to entire compensation of Rs.4,15,500/- with interest at the rate of 6% per annum from the date of this appeal till realization.

iv) The entire compensation amount shall be deposited by the respondent within a period of six weeks from the date of receipt of the certified copy of this judgment.

v) The Tribunal is directed to release the entire amount in favour of the claimant.

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The Registry is directed to communicate the order to the Tribunal and send the records to the Trial Court forthwith.

**Sd/-**
**(S RACHAIAH)**
**JUDGE**

NR/-
List No.: 1 Sl No.: 12