HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO. 7898 OF 2019 (MV-I)

BETWEEN:

UMMAR @ UMMARABBA
S/O ABDUL RAHIMAN
AGED ABOUT 43 YEARS
R/AT ALADI KOTTIGE MANE
KUVETTU VILLAGE AND
GURUVAYANAKERE POST
BELTHANGADY TALUK
PRESENTLY RESIDING AT
DEJAPPA COMPOUND
VEERA NAGARA, BAJAL
MANGALURU TALUK.

...APPELLANT

(BY SRI GURUPRASAD B.R, ADVOCATE)

AND:

1. THE NATIONAL INSURANCE CO. LTD.,
   3, MIDDLETON STREET
   POST BOX No.9229
   KOLKATTA - 700 071.
   LOCAL OFFICE: DIVISIONAL OFFICE
   2ND FLOOR, BHARATH BUILDING
   P.M. RAO ROAD, MANGALURU - 575 002.
   REPRESENTED BY ITS MANAGER.

2. SRI CHANDAPPA HEGDE
   S/O LATE VEERAYYA HEGDE
   AGED ABOUT 41 YEARS
   RESIDING AT SAVANALU HOUSE
   SAVANALU VILLAGE
   BELTHANGADY TALUK.

...RESPONDENTS

(BY SRI JANARDHAN REDDY, ADVOCATE FOR R-1;
V/O DT:23.08.2024 NOTICE TO R-2 IS DISPENSED WITH)

Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI
Location: HIGH
COURT OF
KARNATAKA

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 02.04.2018 PASSED IN MVC No. 1521/2010 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND CJM, MANGALURU, DAKSHINA KANNADA, 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 VIJAYKUMAR A. PATIL

ORAL JUDGMENT

This appeal is filed by the injured challenging the judgment and award dated 02.04.2018 passed in MVC No.1521/2010 by the Motor Accident Claims Tribunal, Mangalore-Dakshina Kannada (for short 'Tribunal').

2. Heard Sri Guru Prasad B.R., learned counsel appearing for the appellant and Sri Janardhan Reddy, learned counsel appearing for respondent No.1 and perused the material available on records.

3. Learned counsel for the appellant submits that the Tribunal has committed gross error in appreciating the oral and documentary evidence. It is submitted that PW.2 has clearly assessed the disability at 22% and 10%

respectively to the limbs. However, the Tribunal has not awarded any compensation under the head of loss of future income due to disability. But it has awarded some compensation of Rs.50,000/- under the head of loss of comfort. It is submitted that there is no compensation awarded under the head of loss of amenities, loss of income during laid up period and future medical expenses as well as award of compensation under conventional head are also on the lower side. On these grounds, he seeks to allow the appeal.

4. *Per contra*, learned counsel appearing for respondent No.1 supports the impugned judgment and award of the Tribunal. He submits that the Tribunal has assigned correct reasons at para 21(d) while answering issue No. 4 and awarded just compensation of Rs.5,13,771/- with interest and there is no scope for enhancement. Hence, he seeks to dismiss the appeal.

5. I have heard the arguments of learned counsel for the appellant, learned counsel for the respondent No.2 - insurance company and meticulously perused the material available on record.

6. The appellant met with a road accident on 08.08.2010 and sustained following injuries as is evident from Ex.P4, copy of the wound certificate:

- *Lacerated wound on left arm*
- *Shaft of tibia and fibula*
- *Blunt injury on abdomen and spleenic rupture*
- *Pancreas injury.*

7. In order to prove the claim, the injured examined himself as PW.1 and also examined Dr.Shahanavaz Manipady as PW.2 and got marked Exs.P1 to P29. The respondent adduced oral as well as documentary evidence as RW.1 to RW.3 and got marked Exs.R1 to R4. The Tribunal recorded the finding and awarded total compensation of Rs.5,13,771/-. It is to be noticed that

the appellant claimed that he was aged about 34 years and running mutton and chicken stall and used to earn Rs.15,000/- per month. It is to be noticed that the appellant has failed to prove the income before the Tribunal. Hence, his income is required to be notionally assessed at Rs.5,500/- per month. PW.2 who has been examined before the Tribunal is of the opinion that the appellant sustained 22% disability over his left upper limb and 10% disability to the left lower limb. He has issued Ex.P19 and Ex.P.20 disability certificate. On perusal of the oral evidence of the doctor and disability certificate and other medical evidence on record, I am of the view that 10% of the disability to the whole body is required to be considered for award of compensation. Having reassessed the income as well as the disability and keeping in mind the fact that the appellant was inpatient for a period of 35 days in the hospital, underwent surgery and after discharge from the hospital also required follow-up treatment, the compensation is reassessed as under:

HEADS	AMOUNT (in Rs.)
Pain and suffering	50,000/-
Attendant, food and extra nourishment	25,000/-
Medical expenses	3,98,771/-
Loss of amenities	50,000/-
Loss of income during laid up period (Rs.5,500/- x 4)	22,000/-
Loss of future income due to disability 5,500x12x16x10%.	1,05,600/-
Future medical expenses	25,000/-
Total	**6,76,371/-**

8. Thus, the appellant-claimant shall be entitled to a total compensation of **Rs.6,76,371/-** as against Rs.5,13,771/- awarded by the Tribunal.

9. In the result, this Court proceeds to pass the following:

ORDER

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

ii) The impugned judgment and award dated 02.04.2018 passed in MVC.No.1521/2010 by the Tribunal is modified to an extent that the appellant-claimant would be entitled to total

compensation of **Rs.6,76,371/-** as against Rs.5,13,771/-.

iii) The enhanced compensation shall carry interest at the rate of 6% p.a. from the date of petition till its realisation.

v) Respondents are directed to deposit the compensation amount before the Tribunal within a period of 6 weeks from the date of receipt of certified copy of this judgment.

vi) The rest of the judgment and award of the Tribunal with respect to apportionment, deposit and release shall remain unaltered.

vii) The appellant would not be entitled for interest for the delayed period of 428 days as per the order dated 23.08.2024.

viii) Draw modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

DKB
List No.: 1 Sl No.: 12