HC-KAR

NC: 2026:KHC:59672
MFA No. 3457 of 2025

CNR: KAHC010311182025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 3457 OF 2025

(MV-I)

BETWEEN:

KUMAR RAKESH L
S/O K N LAKSHMAN
AGED ABOUT 19 YEARS
R/AT No.501, MANGANAHALLI CROSS
VEISHVESHWARAIAH, 3RD BLOCK
BENGALURU – 560 056.

LATE A MINOR NOW ATTAINED MAJORITY
PERMANENT R/AT No.104
KODIYALA KARENAHALLI
BIDADI HOBLI
RAMANAGAR – 562 109.

…APPELLANT

(BY SRI SHASTRI SHRIPAD VISHWANATHA, ADVOCATE)

AND:

1. SRI. VIJAY KUMAR B
S/O BASAVARAJAPPA K
MAJOR, R/AT B, 72
SHRI MARUTHI MYTRI NAGAR LAYOUT
NEAR NIRMAN INTERNATIONAL PUBLIC SCHOOL
UPAKAR LAYOUT
BENGALURU – 560 091.

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2. RELIANCE GEN. INS. CO. LTD.,
No.28, 5TH FLOOR, SOUTHERN PORTION
EAST WING, CENTENARY BUILDING
M G ROAD, BENGALURU-560 001.
REP. BY ITS BRANCH MANAGER.

…RESPONDENTS

(BY SMT. MALATHI N, ADVOCATE FOR R2
V/O DTD. 19.06.2026, NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED:23.10.2024 PASSED IN MVC No.2496/2022 ON THE FILE OF THE XXIII ADDITIONAL SMALL CAUSES JUDGE, MACT, BENGALURU, (SCCH-25), 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 SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed by the appellant/claimant seeking enhancement of compensation awarded in judgment and award dated 23.10.2024 passed in MVC No.2496/2022 by the XXIII Additional Small Causes Judge and Member, MACT, Bengaluru (SCCH-25).

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2. Even though the appeal is listed today for admission, it is taken up for disposal with the consent of learned counsel for appellant and learned counsel for respondent No.2/insurer.

3. The appellant made a claim petition praying to award compensation for the injuries sustained by him in a road traffic accident occurred on 12.01.2021 contending that the accident occurred due to rash and negligent driving of the driver of car bearing Regn.No.KA-41-MB-4503. The Tribunal after recording the evidence of the parties, appreciating the evidence assessed the compensation and awarded compensation under various heads as under:

Sl.No.	Heads	Amount in (Rs.)
01.	Pain and suffering already undergone and to be suffered in future including loss of comforts amenities on account of disability	4,00,000/-
02.	Discomforts, inconvenience and loss of earnings of the parent during the laid up period	20,000/-
03.	Medical bills	21,705/-
04.	Attendant charges	60,000/-

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05.	Transportation and conveyance expenses	40,000/-
	Total	**5,41,705/-**

4. The Tribunal also awarded interest @ 6% p.a. from the date of petition till realization and directed respondent No.2/insurer to deposit the award amount with interest. The claimant seeking enhancement of compensation has filed the present appeal.

5. Heard learned counsel for the appellant and learned counsel for respondent No.2/insurer.

6. The accident occurred on 12.01.2021 and as on the date of accident, the claimant was aged 15 years. Learned counsel for the appellant would contend that the Tribunal relying upon decision of Hon'ble Apex Court in Master Mallikarjun Vs. Divisional Manager, National Insurance has awarded compensation. He placed reliance on the decision of the Hon'ble Apex Court in the case of **Hitesh Nagjibhai Patel v. Bababhai Nagjibhai Rabari and Another (2025 INSC 1070)** to contend that in

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cases of injury to the minor the income is to be taken based on minimum wages, multiplier to be applied and disability is to be taken while awarding compensation for loss of future income due to disability and apart from that compensation is to be awarded under various heads such as pain and suffering, loss of amenities, loss of income of parents during laid up period etc. In view of the decision of Hon'ble Apex Court in the case of Hitesh Nagjibhai Patel (supra), the income of the injured minor is to be taken based on minimum wages of a skilled labourer. Considering the minimum wages of a skilled labourer it is on par with the notional income fixed by the Karnataka State Legal Services Authority for the year 2021 in a sum of Rs.15,000/- p.m. Therefore, the income of the injured claimant is to be taken at Rs.15,000/- p.m.

7. The claimant has sustained head injury. PW.4– Doctor who has examined the claimant has stated that the claimant has traumatic brain injury - right frontal fracture

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and underlying EDH. PW-4 Neuro surgeon has assessed the disability of the claimant based on the neuropsychological assessment done by Dr.Pratibha Sharan (NIMHANS) wherein cognitive and neuro behavioural disability is stated at 41%. PW.4 – Doctor has stated that permanent whole body disability is 62%. PW.4 in the cross-examination has stated that claimant is able to do his day to day activity with difficulty and he has continued his studies. The Doctor has further stated in cross-examination that appellant/claimant has got admitted to the school, but he is not fairing well. Considering the said evidence of the Doctor and Doctor – Pratibha Sharan who has done neuropsychological assessment has not been examined, the Tribunal has rightly taken functional disability at 35%. Since the disability taken is 35%, future prospects are to be added at 40%. Since the claimant is aged 15 years, multiplier applicable is '15'. In view of the above, loss of future income due to disability is calculated as under:

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Rs.15,000 x 12 x 15 x 35% + 40% = Rs.13,23,000/-

8. Considering the injuries sustained by the claimant, he is entitled to award of compensation towards pain and suffering in a sum of Rs.80,000/- and loss of amenities in a sum of Rs.60,000/-. Considering the said injuries sustained the claimant has to take rest atleast for two months and therefore, one of the parent has to take care of the claimant who is minor and therefore, entitled to loss of income of parent during laid up period for two months in a sum of Rs.30,000/- (Rs.15,000 x 2 months). The records indicate that the claimant has been admitted in the hospital for five days and therefore, he is entitled to attendant, conveyance charges, food and nourishment in a sum of Rs.5,000/- (Rs.1000 x 5 days). The claimant has incurred medical expenses of Rs.21,705/- and he is entitled for the same.

9. In view of the above, the claimant is entitled to compensation under various heads as under:

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Sl.No.	Heads	Amount in (Rs.)
01.	Pain and suffering	80,000/-
02.	Loss of amenities	60,000/-
03.	Loss of income during laid up period	30,000/-
04.	Attendant, conveyance charges	5,000/-
05.	Medical expenses	21,705/-
06.	Loss of future income	13,23,000/-
	Total	**15,19,705/-**

10. Considering the above aspects, the claimant is entitled to total compensation of Rs.15,19,705/- as against Rs.5,41,705- awarded by the Tribunal with interest. Consequently, the claimant is entitled to enhanced compensation of Rs.9,78,000/- with interest @ 6% p.a. from the date of petition till realization. Respondent No.2/insurer is liable to pay the said enhanced compensation with interest.

11. In view of the above, the following:

ORDER

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

ii) The appellant/claimant is entitled to enhanced compensation of Rs.9,78,000/-

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with interest @ 6% p.a. from the date of petition till realization.

iii) Respondent No.2/insurer shall deposit the enhanced compensation with interest before the Tribunal within a period of six weeks from this day.

iv) Out of the enhanced compensation 25% shall be released to the claimant and remaining 75% shall be kept in fixed deposit in the name of claimant with Karnataka Bank, City Civil Court Branch, Bengaluru, for a period of five years.

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(SHIVASHANKAR AMARANNAVAR)
JUDGE

DKB
List No.: 1 Sl No.: 18
Ct.sm