HC-KAR

NC: 2026:KHC:59883
MFA No. 3726 of 2025

CNR: KAHC010316832025

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. 3726 OF 2025 (MV-I)

BETWEEN:

SURYANARAYANA
S/O B. ANJINAPPA,
AGED ABOUT 44 YEARS,
KIRANI BUSINESS,
R/O BALLAGARA KAPILE,
MALLURAHALLI VILLAGE,
CHALLAKERE TALUK - 577 536.

…APPELLANT

(BY SRI. R. SHASHIDHARA, ADVOCATE)

AND:

1. NEELA BAI
W/O RAMA NAIK,
OWNER OF TRACTOR BEARING
NO.KA-16/TC-2044,
R/O RAKHALAGERE KAVALU VILLAGE,
CHALLAKERE TALUK - 583 135.

2. THE MANAGER,
MAGMA HDI GENERAL INSURANCE
COMPANY LIMITED, BRANCH OFFICE,
1ST FLOOR, HM ASTRIO, NO.36,
JC ROAD, BANGALORE - 560 002.

…RESPONDENTS

(BY SRI. A.N. KRISHNASWAMY, ADVOCATE FOR R2;
R1 - NEELA BAI - SERVED)

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA

CNR: KAHC010316832025

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.27.02.2025 PASSED IN MVC NO.125/2022 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND MACT-V, CHITRADURGA, 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 SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed by the claimant seeking enhancement of compensation awarded in the Judgment and Award dated 27.02.2025 passed in MVC No.125/2022 by II Additional Senior Civil Judge and Additional MACT-V, Chitradurga.

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

3. The appellant/claimant made a claim petition seeking for award of compensation for the injury sustained by him in a road traffic accident occurred on 07.04.2021

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA

contending that the accident occurred due to rash and negligent driving by the driver of Tractor bearing registration No.KA-16-TC-2044.

4. The Tribunal recorded the evidence adduced by the parties and upon appreciating the evidence on record, assessed the compensation and awarded the compensation under various heads as under:

Sl. No.	**Particulars**	**Amount**
1.	Towards pain and sufferings	Rs. 30,000/-
2.	Towards conveyance, attendant charges and nourishing food	Rs. 5,000/-
3.	Towards loss of discomfort and amenities	Rs. 5,000/-
4.	Towards loss of income during laid down period	Rs. 15,000/-
5.	Towards permanent disability	Rs. 2,29,680/-
6.	Towards medical expenses	Rs. 51,575/-
	Total	**Rs. 3,36,255/- Rounded off to Rs.3,36,260/-**

5. The Tribunal has also awarded the interest at the rate of 6% per annum from the date of petition till

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA

realisation and directed respondent No.1/owner of the vehicle to pay the compensation awarded with interest. The claimant has filed the present appeal seeking enhancement of compensation.

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

7. The accident occurred on 07.04.2021. The notional income fixed for the year 2021 by the Karnataka State Legal Services Authority is Rs.15,000/- and the Tribunal has rightly taken the notional income as income of the claimant.

8. The claimant has sustained head injury, sub archnoid hemorrhage, subdural hemorrhage and other injuries all over the body.

9. Considering the said injuries, the compensation awarded by the Tribunal towards pain and sufferings in a sum of Rs.30,000/- is enhanced to Rs.50,000/- and loss of

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA

amenities awarded in a sum of Rs.5,000/- is enhanced to Rs.30,000/-.

10. The claimant has taken the treatment as an indoor patient between 07.04.2021 to 15.04.2021 i.e., for a period of nine (09) days and therefore entitled to food, nourishment, attendant and conveyance charges in a sum of Rs.9,000/- (Rs.1,000/- X 09 days) as against Rs.5,000/- awarded by the Tribunal.

11. Considering the said injuries sustained, the claimant has to take rest atleast for three (03) months and therefore entitled to loss of income during laid up period for three (03) months in a sum of Rs.45,000/- (Rs.15,000/- X 03 months) as against Rs.15,000/- awarded by the Tribunal.

12. The Tribunal has not awarded the bill amount in Ex.P9 - Medical Bills i.e., bill at Nos.22, 23 and 24, in which the bill at Sl.No.22 is advance payment of Rs.20,000/-, bill at Sl.No.23 is advance payment of

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA

Rs.30,000/- and bill at Sl.No.24 is advance payment of Rs.31,500/-. The last bill at Sl.No.24 is dated 15.04.2021 and it is as on the date of discharge. Since the claimant has not produced the total bill amount incurred by him in Shekhar Hospital, Bengaluru, the advance payments made by him under the said three (03) bills in a sum of Rs.81,500/- (Rs.20,000/- + Rs.30,000/- + Rs.31,500/-) is to be awarded and the Tribunal has erred in excluding those three (03) bills. Therefore, the claimant is entitled to medical expenses of Rs.1,33,075/- as against Rs.51,575/- awarded by the Tribunal.

13. The claimant has mentioned his age as forty one (41) years in his claim petition and forty two (42) years in his evidence affidavit. The said age of the claimant has not been disputed in the cross-examination by the respondents. In Ex.P1 - FIR and Ex.P2 - First Information filed by the claimant, his age is mentioned as forty five (45) years. The Tribunal has taken the age of the claimant as fifty five (55) years without any basis.

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA

Considering the said aspect, the age of the claimant is to be taken as forty five (45) years. The multiplier applicable for the said age is '14'.

14. P.W.2 - Doctor has issued Ex.P8 - Disability Certificate. P.W.2 has stated that the claimant has sustained 35% psychological disability and also stated that there is a decreased memory and his MMSE evaluation score is 18/30. P.W.2 has not stated what is the method he has adopted and how he arrived disability at 35% to the whole body. Considering the said aspect, the Tribunal has rightly taken the disability at 11.60% which is 1/3rd of 35%. Considering the said aspects, the claimant is entitled to loss of future income due to disability as under:

Rs.15,000/- X 12 X 14 X 11.60% = Rs.2,92,320/-

15. Considering all the above aspects, the claimant is entitled to total compensation under various heads as under:

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA

Sl. No.	Particulars	Amount
1.	Pain and sufferings	Rs. 50,000/-
2.	Loss of amenities	Rs. 30,000/-
3.	Loss of income during laid up period	Rs. 45,000/-
4.	Attendant and conveyance charges	Rs. 9,000/-
5.	Medical expenses	Rs. 1,33,075/-
6.	Loss of future income due to disability	Rs. 2,92,320/-
	Total	**Rs. 5,59,395/-**

16. The claimant is entitled to total compensation of Rs.5,59,395/- as against Rs.3,36,260/- awarded by the Tribunal with interest.

17. Consequently, the claimant is entitled to enhanced compensation of Rs.2,23,135/- (Rs.5,59,395/- - Rs.3,36,260/-) with interest at the rate of 6% per annum from the date of petition till realisation.

18. The Tribunal has exonerated respondent No.2/insurer from the liability of payment of compensation on the ground that the driver of the insured vehicle was not holding Driving License as on the date of accident and

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA

liability has been fastened on respondent No.1/owner of the vehicle. There is a violation of policy condition as the driver of insured vehicle was not holding Driving License as on the date of accident. In cases of any violation of policy conditions, the insurer has to pay the compensation and recover the same from the owner of the vehicle. Therefore, respondent No.2 being insurer of the vehicle has to pay the compensation awarded by the Tribunal and compensation enhanced by this Court and recover the same from respondent No.1/owner of the vehicle.

ORDER

i) *Miscellaneous First Appeal is **allowed-in-part**.*

ii) *The appellant/claimant is entitled to total compensation of Rs.5,59,395/- with interest at the rate of 6% per annum from the date of petition till realisation.*

iii) *Respondent No.2/insurer shall deposit the said compensation amount with interest before the Tribunal within a period of six*

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA

weeks from this day and recover the same from respondent No.1/owner of the insured vehicle.

iv) Out of the total compensation awarded, 50% shall be released to the claimant and 50% shall be kept in Fixed Deposit in the name of the claimant in any Nationalized/Scheduled Bank for a period of three (03) years.

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA

(SHIVASHANKAR AMARANNAVAR)
JUDGE

KLV
List No.: 1 Sl No.: 19