HC-KAR

NC: 2026:KHC:23428
M.F.A. No.2302/2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.2302/2019 (MV-I)

BETWEEN:

MASTER MALAPPA
S/O PRABHU CHANDAPPA CHALAVADI
AGED 5 YEARS
SINCE MINOR REPRESENTED BY HIS
FATHER AND NATURAL GUARDIAN
SRI. PRABHU CHANDAPPA CHALAVADI
AGED ABOUT 29 YEARS
OCC: COOLIE
S/O CHANDAPPA CHALAVADI
R/AT NO.231, BAVAURA, KUCHABAL
MUDDEBIHALA TALUK
VIJAYAPURA DISTRICT - 586 116.

Digitally signed by RUPA V
Location: HIGH COURT OF KARNATAKA

...APPELLANT

(BY SRI. SURESH M. LATUR, ADV.,)

AND:

1. SRI. THIMMARAYAPPA
   S/O PILLAPPA
   R/AT NO.109, 7TH CROSS
   BEHIND GANGAMMA TEMPLE
   PILLAPPA BLOCK, GANGANAGAR
   BENGALURU - 560 032.

2. THE MANAGING DIRECTOR
   UNITED INDIA INSURANCE COMPANY LIMITED
   REGIONAL OFFICE
   5TH & 6TH FLOOR, KRISHI BHAVAN

NRUPATHUNGA ROAD
HUDSON CIRCLE
BENGALURU - 560 002.

…RESPONDENTS

(BY SRI. JANARDHAN REDDY, ADV., FOR R2
R1 SERVICE OF NOTICE IS D/W V.C.O. DTD:23.06.2022)

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THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:30.11.2018 PASSED IN MVC NO.5094/2017 ON THE FILE OF THE XXII ADDITIONAL SMALL CAUSES JUDGE, XX ADDITIONAL CHIEF METROPOLITAN MAGISTRATE & MEMBER, MACT, BENGALURU (SCCH-24), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR FINAL HEARING, 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 minor represented by his father challenging the judgment and award dated 30.11.2018 passed in M.V.C.No.5094/2017 by the XXII Additional Small Causes Judge and XX Additional Chief Metropolitan Magistrate and Motor Accident Claims Tribunal, Bengaluru (SCCH-24) (for short, the 'Tribunal').

2. Sri Suresh M. Latur, learned counsel appearing for the appellant submits that the appellant was aged about 3 years at the time of accident and due to the accidental injuries, his left leg above the knee was amputated. However, the Tribunal, ignoring the oral as well as the documentary evidence on record, proceeded to assess the disability at 30% and awarded a meagre compensation of Rs.6,40,000/-. Hence, he seeks to re-assess the compensation by considering the income of the injured minor as per the matrix of minimum wages, by assessing the disability at 80% as the Doctor himself has deposed the same and award just compensation.

3. *Per contra*, Sri.Janardhana Reddy, learned counsel appearing for the respondent No.2 supports the impugned judgment and award of the Tribunal and submits that the Schedule to the Workmen's Compensation Act, 1923, indicates that in case of amputation, 60% disability has to be considered. The

same may be considered and appropriate compensation may be awarded.

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

5. It is not disputed that the appellant who was aged about 3 years met with a road accident on 27.07.2017 and he was immediately shifted to the Bowring Hospital, Bengaluru and thereafter to Victoria Hospital, Bengaluru, and was provided treatment. In order to prove the claim, the father of the appellant examined himself as PW-1, two witnesses as PW-2 and PW-3 and got marked Exs.P1 to P15. It is to be noticed that the evidence of PW-3 clearly indicates that the left leg of the minor was amputated above the knee and he was inpatient in the hospital from 27.07.2017 to 31.08.2017 that is for a period of 35 days.

6. Be that as it may, PW-3 has clearly deposed before the Tribunal that the appellant has sustained disability to an extent of 80%. In my considered view, the same is required to be accepted as the appellant's left leg above the knee is amputated. The Hon'ble Supreme Court in the case of ***HITESH NAGJIBHAI PATEL Vs. BABABHAI NAGJIBHAI RABARI AND ANOTHER***[1] held that in cases of injuries suffered by the minor, the calculation of loss of income necessarily has to be made on the matrix of minimum wages payable to the skilled workers in the respective States. Keeping in mind the aforesaid enunciation of law laid down by the Hon'ble Supreme Court and also the notional income chart prepared by Karnataka State Legal Services Authority, I am of the view that the income of the appellant is required to be re-assessed at Rs.11,000/- p.m. It is required to be taken note of the fact that the appellant is a minor aged about 3 years at the time of accident. The learned counsel

[1] 2025 ACJ 1986

for the appellant has contented that the appellant may face difficulty in getting married due to the amputation. Considering the said submission, ends of justice would be met if Rs.50,000/- is awarded under the head of loss of marriage prospects.

7. Having re-assessed the income and the disability, the compensation on the other heads is also required to be re-assessed appropriately by considering the oral and documentary evidence on record. Thus, the appellant would be entitled to modified compensation as under:

HEADS	**AMOUNT (in Rs.)**
Loss of future income due to disability (11,000 + 40% x 12 x 18 x 80%)	26,61,120
Pain & suffering	50,000
Loss of amenities	50,000
Food, attendant and conveyance charges	25,000
Loss of income of father during laid up period	25,000
Loss of marriage prospects	50,000
Future medical expenses	2,00,000
Total	**30,61,120**

Thus, the appellant-claimant shall be entitled to a total compensation of **Rs.30,61,120/-** as against Rs.6,40,000/- awarded by the Tribunal.

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

ORDER

a) The appeal is ***allowed-in-part***.

b) The impugned judgment and award dated 30.11.2018 passed by the Tribunal in M.V.C.No.5094/2017 is modified to an extent that the appellant-claimant would be entitled to total compensation of **Rs.30,61,120/-** as against Rs.6,40,000/- awarded by the Tribunal.

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

d) The respondent-Insurance Company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within

a period of six weeks from the date of receipt of the certified copy of this judgment.

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

Draw the modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

RV
List No.: 1 Sl No.: 27