HC-KAR

NC: 2026:KHC:61138
MFA No. 5719 of 2023

CNR: KAHC010424692023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 5719 OF 2023

(MV-I)

BETWEEN:

SRI JEEVAN JAMES K A
S/O ARULAPPA,
AGED ABOUT 36 YEARS
R/AT No. 96/1, IGNO SADAN
ST. JOSEPHS INIDAS H.S.
3RD CROSS LAVELLE ROAD,
BENGALURU – 560 001.

PERMANENT ADDRESS:
NO. 17/2596, VIDHYANIKETAN
NIRMAL NAGAR, DHARWAD
HUBLI- DHARWAD CITY – 560 003.

...APPELLANT

(BY SRI UDAYA KUMAR R L, ADVOCATE)

AND:

1. SAIZAR ENTERPRISES PVT. LTD.,
TRANSPORT NAGAR CAMPUS,
DIMMA ROAD, MANGO
JAMSHEDPUR EAST SINGHABHUM,
EAST SINGHBHU 1ST
JAHARKHAND – 831 018.

2. UNIVERSAL SOMPO GENERAL
INSURANCE CO. LTD.

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No. 217/A, 3RD FLOOR, 3RD MAIN
OUTER RING ROAD
KASTURINAGAR
BENGALURU – 560 043.
(REPTD. BY ITS MANAGER)

…RESPONDENTS

(BY SRI B PRADEEP, ADVOCATE FOR R2
NOTICE TO R1 IS D/W)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED: 01.10.2022 PASSED IN MVC No.4079/2020 ON THE FILE OF THE I ADDITIONAL SMALL CAUSES JUDGE AND MOTOR ACCIDENT CLAIMS TRIBUNAL, BENGALURU (SCCH-11), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION.

THIS MFA HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 31.08.2026, THIS DAY, ***SHIVASHANKAR AMARANNAVAR J***, DELIVERED THE FOLLOWING;\

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

CAV JUDGMENT

This appeal is filed by the appellant/claimant seeking enhancement of compensation awarded in the judgment and award dated 01.10.2022 passed in MVC 4079/2020 by the I Additional Judge, Court of Smart Causes and MACT, Bangalore(SCCH-11).

2. The appellant/claimant made a claim petition praying to award compensation for the injuries sustained

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by him in a road traffic accident occurred on 09.08.2015 for the rash and negligent driving of the driver of the lorry bearing Regn.No.NL-01-G-2779. 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.	Towards injury pain and suffering	35,000/-
02.	Towards medical expenses	3,72,159/-
03.	Towards food and extra nourishment and medical attendant	9,600/-
04.	Towards conveyance	10,000/-
05.	Towards loss of income during treatment	20,000/-
06.	Deprivation of future amenities	10,000/-
07.	Future medical expenses	50,000/-
	Total	**5,06,759/-**

3. The Tribunal has also awarded interest at the rate of 6% per annum from the date of petition till realization and directed respondent No.2/insurer to deposit the award amount with interest before the Tribunal. The claimant seeking enhancement of the compensation has filed the present appeal.

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

5. Learned counsel for appellant would contend that the Doctors who have been examined as PW.2 to 4 have clearly stated that the claimant has sustained disability to the whole body and even inspite of the said evidence, the Tribunal has not awarded compensation towards loss of future income due to disability. He placing reliance on the following decisions would contend that the claimant is entitled to compensation for loss of future income due to disability:

- 2026 ACJ 109
  (Soni Sharma v. Oriental Insurance Co.Ltd. and others)
- 2014 AIR SCW 2535
  (P.Dinesh Singh v.Bajaj Allianz General Insurance Co.Ltd)
- 2026 ACJ 425
  (Sandeep Rajendran v. A.Nazar and another)
- MFA No.5242/2020 (Nagaraju T.A. vs. Mallikarjuna)

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6. He contends that the claimant was working as a teacher in a school and due to the injuries sustained and disability to the whole body, he cannot work effectively as a teacher and affected his working as a teacher, therefore, entitled to award of compensation under head loss of future income due to disability. He also contends that compensation awarded towards pain and suffering, loss of amenities, loss of income during laid-up period, attendant and conveyance charges, future medical expenses, are on lower side, considering the injuries/fracture sustained by the claimant. With this he prayed to allow the appeal.

7. Learned counsel for respondent No.2/insurer placing reliance on the decision of the Hon'ble Apex Court in the case of **Raj Kumar v. Ajay Kumar and another (AIR Online 2010 SC 125)**, would contend that if there is functional disability and if it has reduced the income of the claimant, then only claimant is entitled to loss of future income due to disability. In the case on hand, the claimant was working as a Teacher and continued to work

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as Teacher and therefore, his income has not been reduced and he is getting the same income. Therefore, the claimant is not entitled to loss of future income due to disability. The compensation awarded by the Tribunal on all heads is just proper and there are no grounds for enhancement.

8. Having heard the learned counsel the Court has perused the judgment, award and trial court records.

9. The accident occurred on 09.08.2015 and as on the date of accident the claimant was aged 33 years. Considering the said age of the claimant the multiplier to be applied is '16'.

10. The claimant has sustained injuries to right upper limb with open fracture olecramon and underwent surgery in the form of a tension band wiring, debridement and skin grafting and debridement of necrotic skin. Considering the said injuries, the compensation awarded by the Tribunal towards pain and suffering in a sum of Rs.35,000/- is

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enhanced to Rs.50,000/- and loss of amenities awarded in a sum of Rs.10,000/- is enhanced to Rs.40,000/-.

11. The claimant has been admitted in the hospital for 25 days and considering the same he is entitled to attendant, conveyance charges, food nourishment etc., in a sum of Rs.25,000/- (Rs.1,000 x 25 days) as against attendant charges of Rs.9,600/- and conveyance charges of Rs.10,000/- as awarded by the Tribunal.

12. The claimant was working as a Teacher in Loyala School and earning a sum of Rs.12,000/- per month. PW.5 has been examined to establish the said income. PW.5 is the Treasurer of the Society which is running the said school. As per evidence of PW.5, the salary of the claimant is Rs.12,000/- per month. Therefore, the income of the claimant is to be taken at Rs.12,000/- per month.

13. Considering the injuries sustained noted supra, the claimant has to take rest atleast for two months and therefore, entitled to loss of income during laid-up period

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in a sum of Rs.24,000/- (Rs.12,000/- x 2 months) as against Rs.20,000/- awarded by the Tribunal.

14. PW.2-Doctor has stated that the claimant has to undergo surgery for removal of implant and cost of the same is around Rs.40,000/- and PW.3-Doctor has stated that the claimant requires surgery to correct the elbow contracture and also for removal of implant and estimated the cost at Rs.2,00,000/-. Considering the said evidence, the Tribunal has awarded Rs.50,000/- towards future medical expenses. The said compensation awarded towards future medical expenses by the Tribunal is on lower side. Considering the evidence of PW.2 and PW.3 – Doctors, the claimant is entitled to future medical expenses of Rs.1,00,000/- as against Rs.50,000/- awarded by the Tribunal. The claimant is not entitled to interest on future medical expenses.

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15. The Tribunal has rightly awarded medical expenses of Rs.3,72,159/- based on the documents produced by the claimant.

16. PW.2 - Doctor has stated that the claimant has sustained 52% disability to the right upper limb and 26% to the whole body. PW.3-Doctor has stated that the claimant has sustained 34.66% disability and whole body disability is 11.6%. Considering the said evidence of the Doctors – PWs.2 and 3, the disability to the whole body is to be taken at 24% (13% + 11%).

17. Even though the claimant has sustained disability, the Tribunal has not awarded loss of future income due to disability on the ground that the claimant who was working as a Teacher continued to work as a Teacher and getting the same income as he was getting prior to the accident. In **Soni Sharma**(supra), the Hon'ble Apex Court, considering the disability of claimant serving in the Indian Army has observed as under:

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"11. It is pertinent to note that, at the time of the accident, the claimant-appellant was serving in the Indian Army a profession which demands highest standards of physical fitness, alertness, and endurance. Any impairment or disability resulting from the said accident is, therefore, not merely a personal affliction but one that has a direct bearing on his ability to effectively discharge his duties. Such an impairment is likely to adversely affect his efficiency, career prospects both in service or thereafter, and overall service capability in a profession where physical robustness is a fundamental prerequisite, thereby justifying compensation as was awarded by the Tribunal.

12. The mere fact that the claimant-appellant continued in service or did not seek premature retirement could not have been determinative of the issue, as loss of earning capacity 'may subsist not withstanding continuation in employment. Likewise, loss of promotional prospects is required to be assessed on reasonable probabilities having regard to the nature of employment and extent of disability, and does not require strict proof. The High Court substantially reduced the compensation on the ground that the amounts awarded were excessive. Such an exercise amounts to re-

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appreciation of evidence which is beyond the permissible scope of appellate jurisdiction under the Motor Vehicles Act."

18. The Hon'ble Apex Court in **Dinesh Singh**(supra) has observed as under:

"10. We have considered the material placed before us, particularly the evidence of the Doctor, who stated that the appellant suffered 60% disability of the total body, and in his cross-examination denied the suggestion that the appellant does not require any further treatment. The fact that the appellant has resigned as Quality Engineer from Hospet Steels Ltd and took up desk job in Industrial Development Bank of India because of his permanent disability, suffered by him in the accident is not in dispute. Obviously, because of the permanent disability suffered by the appellant, who is an Engineer by profession, cannot take up such profession, which requires moving from one place to other place. Therefore, the reasoning of the High Court that the appellant has not suffered any financial loss because of permanent disability having regard to the fact that subsequently he took up employment in Industrial Development Bank of India as Grade-B Officer,

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cannot be sustained. Once the permanent disability is fixed, taking into consideration, its impact on the employment/profession of the claimant, the compensation has to be awarded. Since the disability suffered by the appellant, which is fixed at 60% and which is permanent in nature, impacted his employment and future prospects, we are of the considered opinion that the Tribunal has rightly determined the compensation Rs.12,840/- x 12 x 17 = Rs.26,19,360/- towards loss of future earnings, and taking into consideration the 60% permanent disability suffered by the appellant, awarded him the actual compensation under the head 'loss of future earnings' at Rs.15,71,616/- by rounding off the same to Rs.15,72,000/-."

19. In the said case the Engineer who sustained disability has changed his job as a Quality Engineer from Hospet Steels Limited and took up desk job in Industrial Development Bank of India.

20. The Hon'ble Apex Court in **Sandeep Rajendran**(supra) has observed as under:

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"3. The Motor Accidents Claims Tribunal, Bangalore had awarded compensation of Rs.2,21,930. The High Court enhanced the same to Rs.3,29,198. Nothing was awarded on account of loss of earning capacity by the High Court taking note of the fact that their was no loss of income to the appellant as he was still carrying on his profession and earning handsomely.

4. The fact remains that on account of functional disability suffered by the appellant in a road accident which the High Court also acknowledged to the extend of 21 per cent, in our opinion, the work of the appellant will certainly suffer. He may not be able to earn, as much as he could have in case the disability was not there. The job of an Architect requires multiple duties to be discharged, which are not limited to the office. There may be site visits and climbing on buildings under construction."

21. In the said case the claimant was an Architect and considering the same the Tribunal has awarded loss of future income due to disability.

22. In **Nagaraju.T.A**., the Co-ordinate Bench has considered disability to a person working with a Chartered

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Accountant has awarded the loss of income due to disability.

23. In **Raj Kumar vs. Ajay Kumar**(supra), relied upon by the learned counsel for respondent No.2/insurer, the Hon'ble Apex Court has observed as under:

> *"9. Therefore, the Tribunal has to first decide whether there is any permanent disability and if so the extent of such permanent disability. This means that the tribunal should consider and decide with reference to the evidence: (i) whether the disablement is permanent or temporary; (ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement, (iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is the permanent disability suffered by the person. If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical*

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evidence, it has to determine whether such permanent disability has affected or will affect his earning capacity."

24. The claimant inspite of sustaining disability, he has continued to work as a Teacher and getting the same income as he was getting prior to the accident. There is no evidence on record to indicate that the claimant is not found suitable for discharging the duties of a Teacher due to the disability sustained by him. The claimant was getting the salary prior to the accident and the same salary he is getting even after the accident. Therefore, he is not entitled to loss of future income due to disability.

25. In **Dr.Yashwant Dongre Vs. Salman Rasheed and others (ILR 2015 KAR 164)**, a Co-ordinate Bench, has observed as under:

"15. In this case, the claimant has got disability to the extent of 46%. The doctor has not spoken about the disability with regard to the whole body. The claimant has permanent disability and thus has permanent diminution of his earning capacity, but he has been continued in the same employment

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without deduction of salary, the claimant is entitled for compensation for his handicap in the labour market. In many cases of comparatively not serious injuries, though there is some permanent disability, the disability has no immediate adverse effect on his salary. He may be getting the pre-accident salary. However, such a man is at a disadvantage when compared with his co-workers in the labour market. It may so happen that he continues to work with difficulty and gets the same salary but if there is reduction in the workforce by the employers, this worker with disability is likely to be sent off first.

16. It may happen in some cases, though the claimant is in a position to work physically after the accident as before, the after effects of the accident may make it more difficult for him to find work or to retain his work. There would be some degree of physical handicap. In these cases, the Court may have to add a suitable sum by way of damages having regard to this aspect. In the instant case, the claimant has got permanent disability to the extent of 46%. The income of the claimant is 30,303/- per month. 1/3rd of 46% will be the disability to the whole body. Accordingly, the disability of the claimant to the whole body is 15%.

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The age of the claimant is 45 years and suitable multiplier that has to be adopted in this case is 14. The loss of income proportionate to the disability of 15% would be 4546/-. So due to the reduced capacity of work, the claimant has lost income of 7,63,728/-(4546/-x 12 = 54552/-x 147,63,728/-). Since the claimant is continuing in his employment, he may not be entitled for compensation under the head of reduced eligibility of employment. However, applying the principle mentioned herein above, a suitable sum has to be awarded by way of damages having regard to his disability. 10% of reduced earning capacity can be awarded as suitable sum in respect of reduced eligibility of employment or handicap in the employment market i.e., Rs.77,000/-."

26. In the case on hand, the claimant has sustained disability at 24% to the whole body. The claimant has permanent disability and thus, has a permanent diminution of his earning capacity but he has been continued in the same employment without reduction of salary, the claimant is entitled for compensation for his handicap in the labour market. In many cases of

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comparatively not serious injuries, though there is some permanent disability, the disability has no immediate adverse effect on his salary. He may be getting the pre-accident salary. However, such a man is at a disadvantage when compared with his co-workers in the labour market. It may so happen that he continues to work with difficulty and gets the same salary. But if there is a reduction in the workforce by the employers, this worker with a disability is likely to be sent off first. Though the claimant is in a position to work physically after accident as before, the after effects of the accident may make it more difficult for him to find work or to retain his work. There would be some degree of physical handicap. In these cases, the Court may have to add a suitable sum by way of damages having regard to this aspect.

27. In the instant case, the claimant got a permanent disability to the extent of 24%. The income of the claimant is Rs.12,000/- per month. The age of the claimant is 33 years and the suitable multiplier to be

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adopted is '16'. The loss of income proportionate to the disability is calculated as under:

Rs.12,000 x 12 x 16 x 24% = Rs.5,52,960/-

28. Since the claimant is continuing in his employment, he may not be entitled to compensation under the head of reduced eligibility of employment. However, applying the principle mentioned in the decision referred supra, a suitable sum has to be awarded by way of damages having regard to his disability. 10% of reduced earning capacity can be awarded as suitable sum in respect of reduced eligibility of employment or handicap in the employment market i.e. Rs.55,296/- (10% of Rs.5,52,960/-). In view of the above, the claimant is entitled to total compensation under various heads as under:

Sl.No.	Heads	Amount in (Rs.)
01.	Pain and suffering	50,000/-
02.	Loss of amenities	40,000/-
03.	Medical expenses	3,72,159/-
04.	Attendant, conveyance charges, food and nourishment etc	25,000/-

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05.	Loss of income during laid up period	24,000/-
06.	Future medical expenses	1,00,000/-
07.	Reduced eligibility of employment or handicap in employment market	55,296/-
	Total	**6,66,455/-**

29. Considering the above aspects, the claimant is entitled to total compensation of Rs.6,66,455/- as against Rs.5,06,759/- awarded by the Tribunal with interest. Consequently, the claimant is entitled to enhanced compensation of Rs.1,59,696/- 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.

30. 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.1,59,696/-

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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) Appellant/claimant is entitled to release of entire enhanced compensation.

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(SHIVASHANKAR AMARANNAVAR)
JUDGE

DKB
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