HC-KAR

NC: 2026:KHC:61272
MFA No. 4959 of 2025

CNR: KAHC010430072025

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. 4959 OF 2025

(MV-I)

BETWEEN:

SRI. DARSHAN J C
S/O J.B.CHANDRA KEERTHI
AGED ABOUT 34 YEARS
R/O.No.218, 5TH CROSS
SARASWATHI NAGAR,
VIJAYANAGAR, BENGALURU NORTH
BENGALURU-560 040.

...APPELLANT

(BY SRI HARISH N.R, ADVOCATE)

AND:

1. SRI MANJUNATHA KARIYAPPA
S/O KARIYAPPA HUCHAPPA
AGE: MAJOR
R/O.No.1267, 12TH C CROSS
9TH MAIN ROAD, MAHALAKSHMI LAYOUT
BENGALURU - 560 086.

(R.C.OWNER OF CAR BEARING
REG.No.KA-50-M-8530)

2. TATA AIG GENERAL INSURANCE COMPANY LIMITED
No.69, 3RD FLOOR, J.P, AND
DEVI JAMBUKESHWARA ARCADE

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MILLERS ROAD, BENGALURU - 560 052.
(POLICY No. 01600494400300 VALID
FROM 17-07-2022 TO 16-07-2023)

…RESPONDENTS

(BY SRI B PRADEEP, ADVOCATE FOR R2
V/O DATED 04.08.2025, NOTICE TO R1 IS D/W)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:01.10.2024 PASSED IN MVC No.1406/2023 ON THE FILE OF THE VIII ADDITIONAL JUDGE, COURT OF SMALL CAUSES, ACJM, MACT, BENGALURU (SCCH-5) PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF 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 claimant seeking enhancement of compensation awarded in the Judgment and Award dated 01.10.2024 passed in MVC No.1406/2023 by VIII Additional Judge, Court of Small Causes and MACT, Bengaluru (SCCH-5).

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 30.01.2023 contending that the accident occurred due to rash and negligent driving of the driver of the car bearing registration No.KA-50-M-8530.

3. 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.	Pain and sufferings	Rs. 15,000/-
2.	Conveyance, nourishment and attendant charges	Rs. 15,000/-
3.	Medical expenses	Rs. 24,000/-
4.	Loss of amenities in life	Rs. 15,000/-
5.	Loss of income during laid up period	Rs. 1,525/-
	Total	**Rs. 70,525/-**

4. 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. The claimant seeking

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enhancement of the compensation awarded by the Tribunal has filed the present appeal.

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

6. Learned counsel for the appellant would contend that the Tribunal has not awarded loss of future income due to disability, even though the disability sustained by the claimant is 13% to the whole body. He placed reliance on the decision of the Hon'ble Apex Court in the case of ***RELIANCE GENERAL INSURANCE COMPANY LIMITED*** **vs.** ***PRIYANKA DAS AND OTHERS,*** reported in ***AIR 2026 SC 4382*** and the decision of coordinate Bench of this Court in the case of ***DR. YASHWANTH DONGRE vs. SALMAN RASHEED AND OTHERS,*** reported in ***ILR 2015 KAR 167*** would contend that even though the claimant getting the same income after the accident, he has to be awarded loss of future income due to disability. He further contended that the

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Tribunal has not awarded medical expenses of Rs.1,43,234/- only on the ground that the said expenses are reimbursed by a medical claim policy of his company. He submits that the said medical reimbursement got from a medical claim policy shall not be deducted and on that point, he placed reliance on the decision of the Hon'ble Apex Court in the case of ***NEW INDIA ASSURANCE COMPANY LIMITED vs. DOLLY SATISH GANDHI & ANR.*** reported in ***2026 INSC 498.*** He also placed reliance on the decision of the Hon'ble Apex Court in the case of ***RAJ KUMAR vs. AJAY KUMAR AND ANOTHER,*** reported in ***AIR ONLINE 2010 SC 144*** on the point of grant of compensation for loss of future earning due to disability. He further submits that the compensation awarded under other heads i.e., pain and sufferings, loss of amenities and loss of income during laid up period are on lower side. He submits that the Doctor has stated that the claimant has to undergo operation for removal of implant and therefore the claimant is to be awarded future

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medical expenses. With these, he prayed to allow the appeal.

7. Learned counsel for respondent No.2/insurer would contend that the compensation awarded by the Tribunal on all heads is just and proper and there are no grounds for enhancement. He further contends that the claimant was working in a company, continued in service, getting the same income as he was getting prior to the accident and therefore the Tribunal has rightly not awarded loss of future income due to disability even though there is a disability to the whole body at 13%. With this, he prayed for dismissal of the appeal.

8. Having heard the learned counsel for appellant and learned counsel for respondent No.2/insurer, the Court has perused the Judgment and Award.

9. The accident occurred on 30.01.2023 and as on the date of accident the claimant was aged thirty two (32) years. The multiplier applicable to the said age is '16'.

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10. The claimant has sustained open fracture both bone left forearm middle third with multiple abrasion as per Ex.P8 - Wound Certificate and Ex.P14 - Discharge Summary. Considering the said injuries sustained by the claimant, the compensation awarded by the Tribunal towards pain and sufferings in the sum of Rs.15,000/- is enhanced to Rs.75,000/- and loss of amenities awarded in a sum of Rs.15,000/- is enhanced to Rs.60,000/-.

11. The claimant has been admitted in hospital for three (03) days and incurred huge medical expenses and considering the same, the Tribunal has rightly awarded attendant, conveyance charges, food, nourishment etc. in a sum of Rs.15,000/-.

12. The claimant has stated that he was getting salary of Rs.30,000/- per month. Considering the said aspect and the injuries sustained by the claimant, he has to take rest atleast for one (01) month and therefore entitled to loss of income during laid up period in a sum of

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Rs.30,000/- as against Rs.1,525/- awarded by the Tribunal.

13. The Tribunal has disallowed medical expenses of Rs.1,43,234/- and has only awarded Rs.24,000/- on the ground that the said amount of Rs.1,43,234/- has been reimbursed by the company under medical policy (Health Insurance). The Hon'ble Apex Court in the case of ***DOLLY SATISH GANDHI*** *supra*, has Held that if the claimant has got reimbursement of medical expenses under any health insurance policy, the same shall not be disallowed on that ground and the claimant is entitled to award of the said medical expenses got reimbursed under health insurance policy. Therefore the claimant apart from Rs.24,000/- awarded by the Tribunal towards medical expenses is also entitled to a sum of Rs.1,43,234/- which he got reimbursed from his company under health insurance policy. Therefore the claimant is entitled to total medical expenses of Rs.1,67,234/- as against Rs.24,000/- awarded by the Tribunal.

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14. P.W.2 and P.W.3 - Doctors have stated that the claimant has to undergo operation for removal of implant and estimated the cost of the same at Rs.60,000/-. Considering the fact that the claimant has to undergo medical operation for removal of implant, he is entitled to a sum of Rs.30,000/- towards future medical expenses. The claimant is not entitled to interest on future medical expenses awarded in a sum of Rs.30,000/-.

15. Whether the claimant is entitled to loss of future income due to disability as he continued in the service even after the accident and getting the same income as he was getting prior to the accident. In the case of ***PRIYANKA DAS*** *supra*, the Hon'ble Apex Court has considered the award of compensation under loss of future income due to disability as the claimant has sustained disability at 100% and has observed that the present case shall not be treated as a precedent. In the said case, the Hon'ble Apex Court has observed as under:

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"36. The calculation of functional disability depends on assessing the victim's earning capacity in the open, competitive market, rather than on retention in a specific, highly accommodated role. Evidence before the High Court, specifically the Career Growth Letter dated 06.02.2018 from her employer, confirmed that the Claimant lost out on her normal career growth and promotional progression, including advancement to the positions of General Manager, Director, or Vice President, as a result of the accident. The record further indicates that she is able to perform her current duties only through specially created software, flexible working hours, and extreme accommodations provided by her employer as an act of corporate compassion.

37. Based on the official Medical Board Report issued by Vardhman Mahavir Medical College & Safdarjung Hospital, which evaluated the Claimant and certified a 100% PPI of the whole body due to post-traumatic head injury with cortical blindness, pelvic fracture, and a permanent colostomy, the compensation calculation shifts from the High Court's 80% assessment to a 100% functional disability because the Claimant's capacity to independently secure, sustain, or advance

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employment in the open labour market has been entirely extinguished.

38. The Court is exercising its discretion in the peculiar facts and circumstances of this case to arrive at just and fair compensation payable to the Claimant. The Claimant is a well-educated lady with a reasonable income. In the circumstances of the present case, which shall not be treated as a precedent, a reasonable sum for the loss of marriage prospects, i.e., Rs. 20,00,000/-, is considered."

Therefore, the said decision cannot be made applicable as it cannot be followed as a precedent.

16. In the case of ***DR. YASHWANTH DONGRE*** *supra*, coordinate Bench of this Court 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*

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permanent diminution of his earning capacity, but he has been continued in the same employment 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*

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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 Rs.30,303/- per month. ⅓rd of 46% will be the disability to the whole body. Accordingly, the disability of the claimant to the whole body is 15%. 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 Rs. 4546/-. So due to the reduced capacity of work, the claimant has lost income of Rs.7,63,728/-(Rs. 4546/- × 12 = Rs.54552/- × 14 = Rs.7,63,728/-). 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

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can be awarded as suitable sum in respect of reduced eligibility of employment or handicap in the employment market i.e., Rs.77,000/."

17. In the case on hand, the claimant as per evidence of the Doctors has sustained disability at 39% to the arm and 13% to the whole body. The claimant even after the accident and injuries, continued to work with his earlier company i.e**., Swasti Health Care Company** and getting same income of Rs.30,000/- per month. The claimant has a permanent disability and thus has a permanent diminution of his earning capacity, but he has been continued in the same employment without a 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

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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 disability is likely to be sent off first. Even 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 a 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 a permanent disability at the extent of 13%. The income of the claimant is Rs.30,000/- per month. Accordingly the disability of the claimant to the whole body taken at 13% since he is having disability to the arm at 39%. The age of the claimant is thirty two (32) years and suitable multiplier that has to be adopted is '16'. The loss of income proportionate to the disability of 13% would be as under:

Rs.30,000/- X 12 X 16 X 13% = Rs.7,48,800/-.

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18. 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 in the decision of the coordinate Bench in the case of ***DR. YASHWANTH DONGRE*** *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 a suitable sum in respect of reduced eligibility of employment or handicap in the employment market i.e., Rs.74,880/-.

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

Sl. No.	Particulars	Amount
1.	Pain and sufferings	Rs. 75,000/-
2.	Loss of amenities	Rs. 60,000/-
3.	Loss of income during laid up period	Rs. 30,000/-
4.	Attendant and conveyance charges etc.	Rs. 15,000/-

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5.	Medical expenses	Rs.	1,67,234/-
6.	Future medical expenses	Rs.	30,000/-
7.	Reduced eligibility of employment or handicap in the employment market	Rs.	74,880/-
	Total	**Rs.**	**4,52,114/-**

20. The claimant is entitled to total compensation of Rs.4,52,114/- as against Rs.70,525/- awarded by the Tribunal with interest.

21. Consequently, the claimant is entitled to enhanced compensation of Rs.3,81,589/- with interest at the rate of 6% per annum from the date of petition till realization.

22. Respondent No.2/insurer is liable to pay the said enhanced compensation with interest.

23. The claimant is not entitled to interest on future medical expenses of Rs.30,000/- awarded by this Court.

24. In view of the above, the following:

ORDER

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

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ii) The appellant/claimant is entitled to enhanced compensation of Rs.3,81,589/- with interest at the rate of 6% per annum from the date of petition till realisation.

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

iv) The claimant is not entitled to interest on future medical expenses of Rs.30,000/- awarded by this Court.

v) Out of the enhanced compensation, the claimant is entitled to release of 50% and remaining 50% shall be kept in Fixed Deposit in his name in Karnataka Bank, City Civil Court Branch, Bengaluru for a period of three (03) years.

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(SHIVASHANKAR AMARANNAVAR)
JUDGE

KLV
List No.: 2 Sl No.: 2
Ct.sm