HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

M.F.A. NO. 6220 OF 2023 (MV-I)

BETWEEN:

SMT. VIJAYALAKSHMI
W/O LATE LINGAIAH,
AGED 68 YEARS,
R/AT NO.203, ADARSHA SERENE,
2ND MAIN ROAD,
BEHIND GOVT. HIGH SCHOOL,
PUTTENAHALLI, 7TH PHASE,
J P NAGAR, BENGALURU-560078.

...APPELLANT

(BY SRI. SHRIRAM ADIGA, ADV.)

AND:

Digitally signed by NANJUNDACHARI
Location: HIGH COURT OF KARNATAKA

1. THE ICICI LOMBARD GEN. INS. CO LTD.,
NO.89, 2ND FLOOR, SVR COMPLEX,
HOSUR ROAD, MADIVALA,
NEAR AYAPPA TEMPLE,
BENGALURU-560068,
REP. BY ITS MANAGER.

2. M/S. THIASOHOLA PLANTATIONS PVT. LTD.,
NO.4/1, TUMKUR ROAD,
YESHWANTHPURA,
BENGALURU-560022.

3. IFFCO TOKIO GEN INS. CO. LTD.,
3RD FLOOR, 3RD BLOCK, KSMFC,
NEAR CHANDRIKA HOTEL,

CUNNINGHAM ROAD,
BENGALURU-560001,
REP. BY ITS MANAGER

4. SMT. MANASA B L
D/O. LATE LINGAIAH,
W/O LATE MOHAMMED MUSTAFA,
AGED 36 YEARS,
R/AT NO.203
ADARSHA SERENE,
2ND MAIN ROAD,
BEHIND GOVT. HIGH SCHOOL,
PUTTENAHALLIL, 7TH PHASE,
J.P. NAGARA,
BANGALORE-560078.

…RESPONDENTS

(BY SRI. ASHOK N PATIL, ADV. FOR R1
SRI D VIJAYAKUMAR, ADV. FOR R3
V/O/D 21.08.2025 NOTICE TO R2 & R4 D/W)

THIS APPEAL IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 23.08.2022 PASSED IN MVC NO.1779/2015 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, COURT OF SMALL CAUSES, C/C XXII ADDITIONAL SMALL CAUSES JUDGE AND ACMM, MEMBER-MACT, BENGALURU (SCCH-24) AND ETC.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

The claimant-appellant is before this Court not being satisfied with the quantum of compensation awarded under Judgment and Award dated 23.08.2022 in MVC No. 1779/2015 on the file of MACT and Court of Small Causes c/c XXII Additional Small Causes Judge and ACMM, Member-MACT, Bengaluru (CCH-24), with a prayer to enhance the compensation.

2. The brief facts of the case are that:

The claimant-injured, Smt. Vijayalakshmi filed claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation for the injuries sustained by her in a road traffic accident that took place on 05.08.2014 involving Audi(Q7) car bearing Registration No.KA-02-MH-3776 and Maruthi Ritz car bearing Registration No.KA-05-MP-2089. It is stated that she was aged 60 years and was earning a sum of Rs.25,000/- per month by running a garment unit.

On appearance, the respondent-insurers of the respective cars filed their objections denying the claim petition averments. Further, it is stated that charge sheet is filed against both the drivers of the car and negligence is attributed to the drivers of both the cars involved in the accident. It is also contented by the respective-Insurance Company counsel that the drivers of the vehicles had no valid and effective driving license as on the date of accident. Thus, they prayed for dismissal of the claimant petition.

In respect of the same accident, two other claim petitions were clubbed together and a common judgment was passed. The appellant-claimant in MVC No.1779/2015 herein examined herself as PW2 and got marked Exhibits P1 to P18. The claimant in MVC No.1778/2015 examined himself as PW1, apart from examining the doctor as PW3. The Tribunal on appreciation of the material on record, awarded a total compensation of Rs.2,42,700/- (Rs.2,42,635/- was rounded off at Rs.2,42,700/-) along

with interest at the rate of 6% per annum under the following heads:

1.	Pain & Suffering	Rs.40,000/-
2.	Medical expenses	Rs.66,695/-
3.	Loss of income during laid up period	Rs.8,500/-
4.	Loss of future income	Rs.73,440/-
5.	Loss of future amenities and happiness	Rs.17,000/-
6.	Attendant, conveyance, food and nourishment charges	Rs.17,000/-
7.	Future medical expenses	Rs.20,000/-
	TOTAL	**Rs.2,42,635/-**

3. While awarding the above compensation, the Tribunal assessed the income of the injured at Rs.8,500/- per month and assessed the whole body functional disability at 8%. The claimant-injured, not being satisfied with the quantum of compensation, is before this Court in this appeal praying for enhancing the compensation.

4. Learned counsel Sri. Shriram Adiga appearing for the appellant-claimant would submit that the quantum of compensation awarded by the Tribunal is on the lower side. Further, he submits that the claimant-injured suffered the following injuries:

> *"a) Laceration in gingival mucosa.*
> *b) Sutured wound over right chin.*
> *c) Swelling in right forearm and right leg.*
> *d) Deformity in right forearm and right leg.*
> *e) Tenderness an abnormal mobility in distal 1/3rd right leg."*

Further, learned counsel would submit that the claimant has undergone surgery in the form of:

> *"a)Closed reduction and IMIL nail to right tibia.*
> *b) Open reduction and plate and screw for radius and ulna."*

Therefore, the assessment of disability rate percent is on the lower side and prays for re-assessing the same.

5. Learned counsel also states that the compensation awarded under the other heads is also on lower side. Further, he submits that the injured was inpatient for nearly six days. He would submit that the

injuries sustained by the claimant has taken more than three months to heal and as such, the claimant would be entitled or compensation under the head Loss of Income during Laid up period at least for a period of three months. He further submits that compensation awarded under the head of Pain and Suffering and Loss of Future Amenities and Happiness are on lower side and prays for enhancing the same.

6. Per contra, learned counsel Sri.Ashok N Patil and Sri.D Vijaykumar, learned advocates appearing for respondent Nos.1 and 3 – Insurance Company would submit that the compensation awarded is just and it needs no interference. It is also their submission that taking note of the injuries sustained and the treatment undergone by the claimant, the Tribunal has rightly assessed the disability at 8% to the whole body and awarded compensation on all other heads reasonably. Hence, they pray for dismissal of the appeal.

7. Heard Sri. Shriram Adiga, learned counsel appearing for the appellant, Sri. Ashok N Patil, learned counsel for respondent No.1 and Sri. D Vijaykumar, learned counsel appearing for respondent No.3. Perused the entire material on record.

8. Having heard the learned counsel appearing for the parties and on perusal of the entire material on record, the only point which falls for our consideration is as follows:

> *"Whether the appellant-claimant would be entitled for enhancement of compensation?"*

9. Our answer to the above question would be ***partly affirmative*** and the claimant would be entitled for enhancement of compensation awarded under different heads. The accident that occurred on 05.08.2014 involving Audi(Q7) car bearing Registration No.KA-02-MH-3776 and Maruthi Ritz car bearing Registration No.KA-05-MP-2089 and the injuries sustained by the claimant Smt. Vijayalakshmi is not in dispute in this appeal. The

claimant is before this Court praying for enhancement of compensation.

10. Learned counsel for the appellant would contend that the disability assessed at 8% to the whole body is on the lower side and he prays for re-assessing the same. The claimant has suffered the following injuries:

> *"a) Laceration in gingival mucosa.*
> *b) Sutured wound over right chin.*
> *c) Swelling in right forearm and right leg.*
> *d) Deformity in right forearm and right leg.*
> *e)Tenderness an abnormal mobility in distal 1/3rd right leg."*

The claimant examined PW3-doctor in support of her case. The doctor in his evidence has stated that the claimant has suffered disability to right lower limb and right upper limb at 19.4%. The Tribunal rightly taking note of the injuries sustained and the evidence of doctor has rightly assessed the functional disability of the injured at 8%, which needs no interference.

11. The claimant has not placed on record any material to establish her income. In the absence of any

material to establish income, the Tribunal is justified in assessing notional income of the injured at Rs.8,500/- per month, taking note of the income chart prepared by the Karnataka State Legal Services Authority, for the year 2014.

12. However, the compensation awarded under the heads, Pain and Suffering and Loss of Future Amenities and Happiness are on the lower side. Taking note of the injuries sustained, treatment taken and hospitalization of the claimant, the compensation under the head Pain and Suffering is enhanced to Rs.50,000/- as against Rs.40,000/- awarded by the Tribunal and a sum of Rs.33,000/- in addition to Rs.17,000/- awarded by the Tribunal under the head Loss of Future Amenities and Happiness.

13. Further, as submitted by the learned counsel for the appellant, the injuries sustained by the claimant would have taken minimum of three months to heal. As such,

the claimant would be entitled for a compensation under the head Loss of Income during Laid up for a period of three months, i.e., Rs.25,500/- (Rs.8500/-x 3months) Thus, claimant would be entitled for the following enhanced compensation, as follows:

Pain & Suffering	**Rs.50,000/-**
Medical expenses	Rs.66,695/-
Loss of income during laid up period	**Rs.25,500/-**
Loss of future income	Rs.73,440/-
Loss of future amenities and happiness	**Rs.50,000/-**
Attendant, conveyance, food and nourishment charges	Rs.17,000/-
Future medical expenses	Rs.20,000/-
TOTAL	**Rs.3,02,635/-**
Less: Compensation awarded by the Tribunal	Rs.2,42,700/-
Enhanced compensation	**Rs.59,935/-**

Thus, the enhanced compensation of **Rs.59,935/-** shall be deposited within 6 weeks by Respondent Nos. 1 and 3.

Ordered accordingly and the appeal stands ***partly allowed***.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE

BSV
CT:bms
List No.: 1 Sl No.: 0