HC-KAR

NC: 2026:KHC:59889
MFA No. 5182 of 2026

CNR: KAHC010474172026

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. 5182 OF 2026

(MV-I)

BETWEEN:

SRI. BAJARAPPA K
S/O. SRI. NAGAPPA KAMARTHI @
NAGAPPA K
AGED ABOUT 57 YEARS
R/O: N;.9/109,
NEAR CHAMUNDESHWARI TEMPLE
ARAKERE, BANNERGHATTA ROAD
BENGALURU-560 078.

...APPELLANT

(BY SRI K V NAIK, ADVOCATE)

AND:

1. SRI. MANUVEL. DSA
S/O. ALBERT.DSA
MAJOR
R/O. FLAT No.G-1
GROUND FLOOR, PRABHAVATHI ALPINE
APARTMENTS, 5TH CROSS
MERIDIAN L/T, BEGUR
BENGALURU - 560 068.

(OWNER OF CAR BEARING
REG. No.KA-03-AD-8511)

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

2. SRI. DHARMA K.A
MAJOR
R/O. No.29, KADIRAMPALLI (V)
BATHAMURI POST
KOLAR TQ. AND DISTRICT – 563 135.

(POLICY HOLDER OF CAR BEARING
REG.No.KA-03-AD-8511)

3. THE MANAGER
BAJAJ ALIANZ GEN. INS. CO. LTD.,
No.1/2, 59TH 'C' CROSS
4TH FLOOR, 4TH 'M' BLOCK
GOLDEN HEIGHTS, RAJAJINAGAR
BENGALURU-10.

…RESPONDENTS

(BY SRI MALLIKARJUNAR REDDY N A, ADVOCATE FOR
SRI B PRADEEP, ADVOCATE FOR R3
V/O DTD. 22.07.2026, NOTICE TO R1 & R2
ARE DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED:11/12/2025 PASSED IN MVC No.8657/2023 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES, PRINCIPAL MOTOR ACCIDENT CLAIMS TRIBUNAL AT BENGALURU., 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

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

CNR: KAHC010474172026

ORAL JUDGMENT

This appeal is filed by the appellant -claimant challenging contributory negligence attributed to him and seeking enhancement of compensation awarded in judgment and award dated 11.12.2025 passed in MVC No.8657/2023 by Chief Judge, Court of Small Causes and Principal MACT, Bengaluru.

2. Even though the appeal is listed today for admission, it is taken up for disposal with the consent of learned counsel for appellant and learned counsel for respondent No.3 –insurer.

3. The appellant made a claim petition praying to award compensation for the injuries sustained by him in a road traffic accident occurred on 08.12.2023 contending that the accident occurred due to rash and negligent driving of the driver of car bearing registration No.KA-03/AD-8511. The Tribunal after recording the evidence of the parties, appreciating the evidence assessed the

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

compensation and awarded compensation under various heads as under:

1.	Medical expenses	Rs.3,46,000/-
2.	Loss of future income	Rs.2,28,100/-
3.	Transportation Charges	Rs.10,000/-
4.	Nourishing food	Rs.20,000/-
5.	Loss of amenities	Rs.20,000/-
6.	Loss of income during the period of treatment	Rs.30,000/-
7.	Pain and suffering	Rs.20,000/-
8.	Future Medical Expenses	Rs.20,000/-
	Total	Rs.6,94,100/-
	Less:30% contributory negligence:	Rs.2,08,230/-
	Total	Rs.4,85,870/-
	Which is rounded off to	**Rs.4,86,000/-**

4. The Tribunal has held that the claimant has contributed to the accident and assessed his contributory negligence at 30% and after deducting 30% in the compensation assessed, awarded Rs.4,86,000/-. The claimant challenging the said contributory negligence attributed and also seeking enhancement of the compensation has filed the present appeal.

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

5. Heard learned counsel for appellant and learned counsel for respondent No.3 -insurer.

6. Learned counsel for appellant would contend that the charge sheet has been filed against the driver of the car for rash and negligent driving. Respondents have not examined the driver of the car or investigating officer or any witness to establish the contributory negligence of the claimant. The sole negligence is on the part of the driver of the car. He further submits that the claimant has sustained six grievous injuries and one simple injury and considering the same, the compensation awarded towards pain and suffering, loss of amenities, loss of income during laid up period are on lower side. The doctor –P.W.2 has assessed the disability at 44% and The Tribunal erred in taking the disability at 12% to the whole body. The compensation awarded towards future medical expenses is on lower side. He further submits that the notional income for the year 2023 is Rs.16,250/- and said income is to be taken. With these, he prays to allow the appeal.

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

7. Learned counsel for respondent No.3 -insurer would contend that considering the sketch and spot of the accident, the Tribunal has rightly held that the claimant has contributed to the accident and assessed his contributory negligence at 30%. The compensation awarded on all heads is just and proper and there are no grounds for enhancement. Since the disability is less than 20%, the claimant is not entitled to future prospects, which has been taken by the Tribunal at 10%. With this, he prays to dismiss the appeal.

8. Having heard learned counsels, the Court has perused the impugned judgment, award and Trial Court records.

9. The following points arise for consideration:

i) Whether the Tribunal is justified in attributing contributory negligence to the claimant?

ii) Whether there are any grounds for enhancement of the compensation?

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

Reasons to Point No.1: The accident has taken place on 08.12.2023 at 07:00 p.m. Ex.P6 is the charge sheet and it is filed against the driver of the car bearing registration No.KA-03/AD-8511 for rash and negligent driving for offences punishable under Sections 279 and 338 of IPC. There is no allegation in the charge sheet against the claimant for rash and negligent riding of his motorcycle. Ex.P3 is the sketch of the spot of the accident. The spot of the accident is in the middle of the junction. Ex.P4 is the Motor Vehicles Inspector's Report, which indicate damage to the front side of the car namely to bonnet, windshield glass and scratch marks on left side of the Honda Activa. Considering the said aspect, the car dashed to the motorcycle. Respondents are not chosen to examine the driver of the car or the investigating officer or any eyewitness to the incident to establish contributory negligence on the part of the claimant -rider of the Honda Activa. Therefore, materials placed on record clearly indicate sole rash negligence on the part of the driver of

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

the car. Therefore, the Tribunal has erred in attributing contributory negligence to the claimant. Point No.1 is answered accordingly.

10. Reasons to Point No.2: The Tribunal has held that as on the date of accident the claimant was aged 55 years 10 months, 07 days for applying multiplier. The completed age is to be taken. Therefore, the age of the claimant is to be taken as 55 years. The multiplier applicable for the said age is '11'. The Tribunal erred in applying multiplier '9' considering the age as 56 years. The notional income fixed for the year 2023 by Karnataka State Legal Service Authority is Rs.16,250/- per month and the said income is to be taken as against Rs.16,000/- as taken by the Tribunal.

11. The claimant has sustained the following injuries as per Ex.P5 wound certificate:

i) Displaced fracture discal 1/3 left femur shaft

ii) Chip fracture of medical epicondyle of left femur

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

iii) Comminuted # of left laceral tibia plateau

iv) Linear fracture proximal metaphysic of left tibia

v) Linear undisplaced fracture of proximal 1/3 of diaphysis left fibula

vi) Comminuted # of distal diaphysis of left fibula mildly displaced laceral fracture fragment

vii) Abrasion over lower ½ left leg 3x1 cm appxy, abrasion over laceral malledus and 2x1 cm appxy.

Out of the 07 injuries, 1 to 6 are grievous in nature and injury No.7 is simple in nature. Considering the said injuries, the compensation awarded by the Tribunal towards pain and suffering in a sum of Rs.20,000/- is enhanced to Rs.1,50,000/- and loss of amenities is awarded in a sum of Rs.20,000/- is enhanced to Rs.1,20,000/-. The claimant has been admitted in the hospital for 08 days. Considering the same, the claimant is

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

entitled to attendant, conveyance charges, food and nourishment etc., in a sum of Rs.8,000/- (Rs.1,000/- x 08 days) as against Rs.10,000/- as awarded by the Tribunal towards transportation charges and Rs.20,000/- awarded towards food nourishment etc,. Considering the said injuries sustained by the claimant, he has to take rest at least for 03 months and therefore, he is entitled to loss of income during laid up period in a sum of Rs.48,750/- (Rs.16,250/- x 3 months). P.W.2 doctor has stated that the claimant has to undergo surgery for removal of implant and therefore, the claimant is entitled to future medical expenses in a sum of Rs.30,000/- as against Rs.20,000/- as awarded by the Tribunal.

12. P.W.2 -doctor who has examined the claimant, assessed his disability and stated that the claimant has sustained 44% disability to the lower limb. The Tribunal has taken the disability to the whole body at 12%. In cases of disability to the lower limb, 1/3rd of the same is to be taken as disability to the whole body. Therefore, the

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

disability to the whole body is taken at 14.66% (1/3rd of 44%). In view of the same, the loss of future income due to disability is calculated as under:

Rs.16,250/- x 12 x 11 x 14.66% = Rs.3,14,457/-.

13. As the disability is less than 20%, the claimant is not entitled to future prospectus. The Tribunal has erred in adding future prospects at 10%. In view of the above, the claimant is entitled to total compensation under various heads as under:

Sl.No.	Heads	Amount in (Rs.)
01.	Towards Pain and Suffering	1,50,000/-
02.	Towards Medical Expenses	3,46,000/-
03.	Towards attendant, conveyance charges, food and nourishment etc.,	8,000/-
04.	Towards loss of amenities	1,20,000/-
05.	Towards loss of future income due to disability	3,14,457/-
06.	Toward loss of income during laid up period	48,750/-
07.	Towards Future Medical Expenses	30,000/-
	Total	**10,17,207/-**

Respondent No.3 -insurer is liable to pay the said total compensation of Rs.10,17,207/- with interest at the

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

rate of 6% per annum from the date of petition till realization. Consequently, the claimant is entitled to enhanced compensation of Rs.5,31,207/- (Rs.10,17,207/- less Rs.4,86,000/-) with interest at the rate of 6% per annum from the date of petition till realization. Respondent No.3 -insurer is liable to pay the said enhanced compensation with interest. Accordingly, point No.2 is answered.

14. In view of the above, the following

ORDER

i) The appeal is ***allowed in part.***

ii) The contributory negligence attributed to the claimant is set aside.

iii) The claimant is entitled total compensation of Rs.10,70,207/- with interest at the rate of 6% per annum.

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

iv) The claimant is entitled to enhanced compensation of Rs.5,31,207/- with interest at the rate of 6% per annum from the date of petition till realization.

v) Respondent No.3 -insurer shall deposit the said enhanced compensation with interest before the Tribunal within a period of 06 weeks from this day.

vi) Out of the enhanced compensation, 50% shall be released to the claimant and remaining 50% shall be kept fixed deposit in his name in Karnataka Bank, City Civil Court Branch, Bengaluru for a period of 3 years.

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

(SHIVASHANKAR AMARANNAVAR)
JUDGE

DSP
List No.: 1 Sl No.: 34
Ct.sm