HC-KAR

NC: 2026:KHC:63370
MFA No. 5163 of 2026

CNR: KAHC010479672026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 5163 OF 2026

(MV-I)

BETWEEN:

ROHITH S
S/O. SRINIVAS S
AGED ABOUT 24 YEARS
R/AT. SEVA BHARATHI SCHOOL
S.B. COLONY, SINDHUR, RAICHUR
KARNATAKA-584 128.

...APPELLANT

(BY SRI. N R RANGEGOWDA, ADVOCATE)

AND:

1. M/S. KARTHIK ENTERPRISES
REP BY ITS MANAGER
R/AT. No. 123, 3RD CROSS
AISHWARYA, RRAMANNA GARDEN,
VIDYARANYAPURA
BENGALURU-560 097.

2. ICICI LOMBARD GENERAL INSURANCE CO. LTD.,
REP BY ITS MANAGER
R/AT. 9TH FLOOR, THE ESTATE 121
DICKENSON ROAD
M G ROAD, BANGLORE-560 042.

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3. MR.NAVIN
S/O. GOPALAPPA PATIL
AGED MAJOR
R/AT. HALYAL, LAXMI GUDI
AFZALPURA, GULBARGA
KARNATAKA-585 301.

4. IFFCO TOKIO GENRAL INSURANCE CO. LTD.,
REP. BY ITS MANAGER
SRI SHANTHI TOWERS
5TH FLOOR, 3RD MAIN, 141
EAST OF NGFT LAYOUT
KASTURI NAGAR
BANGALORE-560 043.

…RESPONDENTS

(BY SRI B PRADEEP, ADVOCATE FOR R2
SRI S SHANKARA REDDY, ADVOCATE FOR R4
V/O DTD. 20.07.2026, NOTICE TO R1 & R3 ARE D/W)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED:10.03.2026 PASSED IN MVC No.7431/2022 ON THE FILE OF THE VII ADDITIONAL SCJ AND ACJM, MEMBER, MACT 3 BENGALURU, PARTLY 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

ORAL JUDGMENT

1. This appeal is filed by the claimant seeking enhancement of compensation awarded in the judgment and award dated 10.03.2026 passed in MVC No.

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7431/2022 by the VII Additional Small Causes Judge and Member, MACT, Bengaluru.

2. Appellant – claimant made a claim petition praying to award compensation for the injuries sustained by him in a road traffic accident that occurred on 02.10.2022 due to the rash and negligent driving by the driver of Bolero jeep bearing registration No. KA-43-M-4824. The Tribunal after recording evidence, appreciating the evidence on record, assessed the compensation and awarded compensation under different heads as under:

1	Loss of future income	Rs.3,34,800.00
2	Pain and sufferings	Rs.30,000.00
3	Attendant charges, extra nutritious food and conveyance charges	Rs.30,000.00
4	Medical expenses	Rs.1,30,600.00
5	Loss of future amenities and unhappiness	Rs.30,000.00
6	Loss of income during laid up period	Rs.31,000.00
7	Future medical expenses	Rs.20,000.00
	Total	**Rs.6,06,400.00**

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3. The Tribunal has also held that rider of the motorcycle contributed to the accident and assessed his contributory negligence at 20% and deducted 20% in the total compensation assessed and awarded Rs.4,85,120/- (80% of Rs.6,06,400/-) with interest at the rate of 6% p.a. from the date of petition till the date of realization and directed respondent No. 2 – Insurer to deposit the award amount with interest. Claimant challenging 20% contributory negligence attributed to the rider of the motorcycle and seeking enhancement of the compensation awarded, has filed the present appeal.

4. Heard learned counsel for appellant – claimant and learned counsel for respondent No. 2 – Insurer.

5. Learned counsel for appellant - claimant would contend that contributory negligence has been attributed to the rider of the motorcycle only on the ground that he was riding the motorcycle along with two pillion riders (triple riding). Said triple riding has not caused the

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accident. He places reliance on the decision of the Hon'ble Apex Court in the case of ***Mohammed Siddique and another Vs. National Insurance Company Ltd and others, Civil Appeal No. 79/2020*** decided on ***08.01.2020***. He further submits that considering the said aspect the entire rash and negligent driving is on the part of the driver of the Bolero jeep (insured with the respondent No. 2) and liability to pay the entire compensation assessed is on it. He submitted that the compensation awarded towards pain and suffering, loss of amenities, loss of income during laid up period and future medical expenses is on lower side. With this prayed allow the appeal.

6. Learned counsel for respondent No. 2 - Insurer would contend that rider of the motorcycle was riding the motorcycle with two pillion riders including the claimant and he was not holding the driving license. Ex.P.7 is the charge sheet and it is filed against driver of the Bolero jeep for offence under Sections 279 and 337 of IPC for

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rash and negligent driving and it is also filed against driver of the motorcycle for offence under Section 128(a) read with Section 177 and Section 3(1) read with Section 181 of the Motor Vehicles Act. Said charge sheet has not been filed against the driver of the motor cycle for rash and negligent driving under Sections 279 and 337 of IPC. There is no evidence on record that triple riding by the driver of the motor cycle has caused the accident.

7. The Hon'ble Apex Court in the case of ***Mohammed Siddique (supra)*** has held as under:

Para 13 and 14

> *"13. But the above reason, in our view, is flawed.* ***The fact that the deceased was riding on a motor cycle along with the driver and another, may not, by itself, without anything more, make him guilty of contributory negligence.*** *At the most it would make him guilty of being a party to the violation of the law. Section 128 of the Motor Vehicles Act, 1988, imposes a restriction on the driver of a two wheeled motor cycle, not to carry more than one person on the motor cycle. Section*

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194C inserted by the Amendment Act 32 of 2019, prescribes a penalty for violation of safety measures for motor cycle drivers and pillion riders. Therefore, the fact that a person was a pillion rider on a motor cycle along with the driver and one more person on the pillion, may be a violation of the law. But such violation by itself, without anything more, cannot lead to a finding of contributory negligence, unless it is established that his very act of riding along with two others, contributed either to the accident or to the impact of the accident upon the victim. ***There must either be a causal connection between the violation and the accident or a causal connection between the violation and the impact of the accident upon the victim.*** *It may so happen at times, that the accident could have been averted or the injuries sustained could have been of a lesser degree, if there had been no violation of the law by the victim. What could otherwise have resulted in a simple injury, might have resulted in a grievous injury or even death due to the violation of the law by the victim.* ***It is in such cases, where, but for the violation of the law, either the accident could have been averted or the impact could have been minimized, that the principle of contributory***

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negligence could be invoked*. It is not the case of the insurer that the accident itself occurred as a result of three persons riding on a motor cycle. It is not even the case of the insurer that the accident would have been averted, if three persons were not riding on the motor cycle. The fact that the motor cycle was hit by the car from behind, is admitted. Interestingly, the finding recorded by the Tribunal that the deceased was wearing a helmet and that the deceased was knocked down after the car hit the motor cycle from behind, are all not assailed. Therefore, the finding of the High Court that 2 persons on the pillion of the motor cycle, could have added to the imbalance, is nothing but presumptuous and is not based either upon pleading or upon the evidence on record. Nothing was extracted from PW3 to the effect that 2 persons on the pillion added to the imbalance.*

14. Therefore, in the absence of any evidence to show that the wrongful act on the part of the deceased victim contributed either to the accident or to the nature of the injuries sustained, the victim could not have been held guilty of contributory negligence. Hence the reduction of 10% towards contributory negligence, is clearly unjustified and the same has to be set aside."

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8. There is no evidence on record that triple riding by the driver of the motor cycle has added to imbalance due to which the accident has occurred. In view of the same, contributory negligence attributed to the rider of the motor cycle is not proper and it is set aside.

9. Claimant had sustained the following injuries:

Closed fracture medical malleolus right ankle

10. Considering the said injuries sustained, compensation awarded by the Tribunal towards pain and suffering in a sum of Rs.30,000/- is enhanced to Rs.40,000/-, loss of amenities in a sum of Rs.30,000/- is enhanced to Rs.40,000/-. Considering the fractures sustained by the claimant he had take rest at-least for 3 months and therefore, entitled to loss of income during laid up period in a sum of Rs.46,500/- (Rs.15,500 X 3 months) as against Rs.31,000/- awarded by the Tribunal.

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11. The Doctor has stated that claimant has to undergo surgery for removal of implant and requires a sum of Rs.30,000/- towards future medical expenses, but, the Tribunal has awarded only Rs.20,000/-. In view of the said evidence of the Doctor, claimant is entitled to future medical expenses of Rs.30,000/- as against Rs.20,000/- awarded by the Tribunal.

12. Claimant was admitted in the hospital for 4 days. Considering the injuries sustained the Tribunal has rightly awarded attendant charges, extra nutritious food and conveyance charges in a sum of Rs.30,000/-.

13. Claimant is not seeking enhancement of compensation awarded under the head `loss of future income due to disability'.

14. In view of the above, claimant is entitled to total compensation under various heads as under:

1	Pain and suffering	Rs.40,000/-
2	Loss of amenities	Rs.40,000/-

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3	Attendant charges, extra nutritious food and conveyance charges	Rs.30,000/-
4	Loss of income during laid up period	Rs.46,500/-
5	Medical expenses	Rs.1,30,600/-
6	Future medical expenses	Rs.30,000/-
7	Loss of income due to disability	Rs.3,34,800/-
	Total	**Rs.6,51,900/-**

15. Considering the above aspects, claimant is entitled to total compensation of Rs.6,51,900/- as against Rs.4,85,120/- awarded by the Tribunal. Consequently, claimant is entitled to enhanced compensation of Rs.1,66,780/- with interest at the rate of 6% p.a. from the date of petition till the date of realization. Respondent No. 2 – Insurer is liable to pay the said enhanced compensation with interest.

16. In view of the above, the following;

O R D E R

a) Appeal is allowed in part.

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b) Appellant - claimant is entitled to enhanced compensation of Rs.1,66,780/- with interest at the rate of 6% p.a. from the date of petition till the date of realization.

c) Respondent No. 2 – Insurer shall deposit the enhanced compensation with interest before the Tribunal within six weeks from this day.

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

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(SHIVASHANKAR AMARANNAVAR)
JUDGE

LRS
List No.: 1 Sl No.: 52
Ct.sm