NC: 2026:KHC:14586
MFA No. 5568 of 2024

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 5568 OF 2024 (MV-I)

BETWEEN:

MR JINTENDRA ALIAS JINTHENDRA PATEL
S/O MANA RAM,
AGED ABOUT 37 YEARS,
RESIDING AT MANA RAM,
266, CHOUDHARIYO KA BAS,
CHENDA, PALI,
RAJASTAN- 306421
PRESENTLY RESIDING AT
SRI KRUPA NIVAS,
NEAR JANATHA DELUXE, BALLALBAGH,
MANGALURU, D K- 575001

Digitally signed by SHARADAVANI B
Location: High Court of Karnataka

...APPELLANT

(BY MISS POOJA PARVATHI.U, ADVOCATE FOR

SRI. RAVISHANKAR SHASTRY G., ADVOCATE)

AND:

1. MR NARAYANA SHENOY
   S/O RAMESH SHENOY,
   MAJOR

R/AT 1-S-19/1441
PADMA SHETTY COMPOUND,
NEAR URWA MARIGUDI TEMPLE,
MANGALURU D K DISTRICT- 575005

2. THE DIVISIONAL MANAGER
UNITED INDIA INSURANCE COMPANY LTD,
SALDANHA BUILDING, BRIDGE ROAD,
BALMATTA MANGALURU,
D K DISTRICT- 575001

…RESPONDENTS

(BY V/O DTD 30.08.2025, NOTICE TO R1 IS D/W;

SRI. S V HEGDE MULKHAND, ADVOCATE FOR R2)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 02.05.2024 PASSED IN MVC NO. 276/2023 ON THE FILE OF THE I ADDITIONAL DISTRICT JUDGE AND MACT-II, MANGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

ORAL JUDGMENT

This appeal is filed by the appellant under Section 173(1) of the Motor Vehicles Act, 1988 challenging the judgment and award dated 02.05.2024 passed in MVC No.276/2023, by the I Additional District Judge and Motor Accident Claims Tribunal-II, Mangaluru for enhancing the compensation.

2. Heard the arguments of learned counsel appearing for the appellant and respondent No.2. Notice to respondent No.1 is dispensed with vide order dated 30.08.2025.

3. The status of the parties before the Tribunal is retained for the sake of convenience.

4. It is a case of injury, injured/claimant filed a claim petition claiming compensation of Rs.10,00,000/-. The Tribunal considering the entire evidence on record, granted Rs.3,81,000/- with interest at the rate of 6% per annum from the date of petition till its realization. Aggrieved by the said judgment and award, he preferred this appeal and mainly contended that he sustained the following injuries:-

(i) Laceration of 10 cmx2cm bone deep on the left

knee with MRI showing fracture of lateral condyle

of femur with quadriceps tendon tear with anterior

cruciate & lateral collateral ligaments tear with

patellar tendon tear.

(ii) Swelling of left foot with underlying fracture of

2nd and 4th toes.

iii) Laceration of 3 cm x 2 cm x bone deep on the

left heel".

5. He got admitted in Yenepoya Speciality Hospital at Mangalore from 23.09.2022 to 28.09.2022. He was inpatient for a period of 6 days but the tribunal granted meager amounts under other heads.

6. It is stated that appellant was aged 36 years and running Ganesh garments retails and wholesale dealer, Venkatramana Arcade, Bhavanthi Street, Mangaluru and earning Rs.35,000/- per month. Ex.P-13 is the income tax returns from the year 2019 to 2023 and the average annual income is Rs.3,28,632/-. Therefore, monthly income is to be taken as Rs.27,386/-. But the tribunal has taken notional

income of Rs.15,500/-. Ex.P-11 is the disability certificate, as per the evidence of PW2, he suffered 33% disability to the left limb and the tribunal has taken only 11% disability. The tribunal has erred in observing that medical bills are paid by the Star Health Insurance Company where the appellant had a policy but counsel argued when premium of such policy was paid by the appellant, he is entitled for reimbursement and he is also entitled for medical expenses in this petition and therefore requested for enhancement of the compensation.

7. Appellant is aged 36 years running Ganesh garments and he filed the statement of account filed before the IT department. The counsel of the respondent stated that he has not filed any document to prove that he was proprietor of the concerned garments company. As he filed the statement of account, showing his income for a period of 3 years continuously. This Court can judicial notice of the fact that he was running a garments shop and as such he submitted IT returns before the concerned department. Therefore the average income can be taken as Rs.20,000/- per month and he was aged 36 years. The multiplier is '15'. He sustained grievous injuries, Doctor assessed disability as 33% limb disability.

Therefore, 1/3rd of the same comes to 11%. The loss of future earning capacity is to be taken as (Rs.20,000/- x 12x15x11%) = 3,96,000/-. Tribunal granted Rs.32,481/- towards medical expenses.

8. The learned counsel for the respondent contented that they incurred Rs.1,09,264/- towards medical expenses as per Ex.P-14. But in the cross-examination he admitted that they received Rs.62,790/- from Star Health Insurance Company and thus Tribunal granted Rs.32,481/- towards medical expenses.

9. The learned counsel for the appellant contended that they paid premium for the health insurance and received the said amount and he is entitled for entire medical expenses in this case as per his admission he received Rs.62,790/- from the Insurance Company and he cannot be allowed to get double benefit. Therefore this Court finds it reasonable to confirm Rs.32,481/- granted by the Tribunal.

10. Thus in all, award of compensation passed by the Tribunal is modified as under:

Particulars	Amount in Rs.
Pain and suffering	50,000.00
Loss of amenities	30,000.00
Transportation, extra nourishment and attendant charges	30,000.00
Loss of earnings during laid up period	40,000.00
Medical expenses	32,481.00
Loss of future earning capacity	3,96,000.00
Total	**5,78,481.00**

11. Hence, the compensation is enhanced from Rs.3,80,881/- to **Rs.5,78,481/-** along with interest at 6% per annum from the date of petition till the date of deposit.

12. In the result, the following order is passed:-

ORDER

i. Appeal is ***allowed-in-part.***

ii. The judgment and award dated 02.05.2024 passed in M.V.C.No.276/2023 by I Additional District Judge and MACT-II, Mangaluru is modified;

iii. The appellant is entitled to a sum of **Rs.5,78,481/-** along with interest at 6% p.a.

from the date of petition till the date of realization as against **Rs.3,80,881/-.**

iv. As the Insurance Company already deposited the amount before the Tribunal, respondent No.2 is directed to deposit the enhanced compensation of Rs.1,97,600/-with the interest at the rate of 6% per annum within one month from the date of this order.

v. On such deposit, the appellant is permitted to withdraw the entire amount along with accrued interest.

vi. Draw award accordingly.

Sd/-
(P SREE SUDHA)
JUDGE

VS
List No.: 1 Sl No.: 72