NC: 2026:KHC:12673
MFA No. 1684 of 2020

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO. 1684 OF 2020 (MV-I)

BETWEEN:

1. SRI S GANESH,
   S/O. SHIVAKUMAR,
   AGED ABOUT 35 YEARS,
   R/AT NO. 9, 14TH CROSS,
   GOUTHAMAPURAM,
   BENGALURU - 560 008.

…APPELLANT

(BY SRI. KRISHNA REDDY R, ADVOCATE)

AND:

1. M/S BAJAJ ALLIANZ GENERAL INSURANCE CO LTD.,
   GOLDEN HEIGHTS, 4TH FLOOR,
   NO. 102, 59TH CORSS,
   'C' 4TH 'M' BLOCK,
   RAJAJINAGAR,
   BENGALURU - 560 010.
   BY ITS MANAGER.

Digitally signed by KAVYA R
Location: High court of Karnataka

2. SUNIL DUTT,
   S/O. TRIPALSINGH,
   NO.1, 1ST FLOOR,
   JAYALAKLSHMI NILAYA,
   8/2. OPP. SUBRAMANYASWAMY TEMPLE,
   SUBBANNAPALYA, BANASAWADI,
   BENGALURLU - 560 033.

…RESPONDENTS

(BY SRI.B.PRADEEP, ADVOCATE FOR R1;

R2-NOTICE IS DISPENSED WITH V/O/D 21.07.2025)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.27.08.2019 PASSED IN MVC NO.444/2019 ON THE FILE OF THE V ADDITIONAL SMALL

CAUSES JUDGE AND XXIV ACMM, MEMBER, MACT, BENGALURU, (SCCH-20), 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 VIJAYKUMAR A. PATIL

ORAL JUDGMENT

This appeal is filed by the appellant under Section 173(1) of Motor Vehicles Act, 1988 challenging the judgment and award dated 27.08.2019 passed in MVC.No.444/2019, by the Motor Accidents Claims Tribunal and V Additional Judge, Mayo Hall Unit, Bengaluru (hereinafter referred to as 'Tribunal') for enhancing the compensation.

2. Heard the arguments of the learned counsel Sri.Krishna Reddy R, appearing for the appellant and learned counsel Sri.B.Pradeep, appearing for respondent No.1. Notice to respondent No.2 is dispensed with vide order dated 21.07.2025.

3. Learned counsel appearing for the appellant submits that the Tribunal has committed a grave error in

assessing the income, disability and has awarded meagre compensation on all other heads. Hence, he seeks to reassess the same by considering the evidence on record.

4. *Per contra*, learned counsel appearing for respondent No.1 supports the impugned judgment and award of the Tribunal and submits that the Tribunal has failed to produce any evidence with regard to income. Hence, assessment of the income by the Tribunal is just and proper and does not call for any modification. He submits that the doctor who has deposed before the Tribunal is not a treating doctor. Hence, the disability assessed is correct and the award of compensation under all heads is also proper. Hence, he seeks to dismiss the appeal.

5. I have heard the arguments of learned counsel for the appellant and learned counsel for the respondent No.1 and meticulously perused the material available on record. I have given my anxious consideration to the submissions advanced.

6. The only point that arises for consideration in this appeal is :

> ***"whether the impugned judgment and award of the Tribunal calls for any interference?"***

7. The aforesaid point is answered in the affirmative for the following reasons:

It is not in dispute that the road accident dated 06.09.2016, the appellant suffered disability of lower limb due to Zygomatic Fracture and Tibia Fracture. It is to be noticed that the injured was aged about 28 years. He claimed that he was working as a labourer in Larsen and Tourbo Ltd., Bengaluru. However, the injured-claimant has failed to produce any evidence with regard to his income. Hence, his income is notionally reassessed at Rs.9,500/- per month, placing reliance on the notional income chart prepared by Karnataka State Legal Services Authority. Insofar as the disability is concerned, PW.2 is admittedly not a treating doctor. However, the medical evidence on record would indicate that the appellant was inpatient in

the hospital and underwent surgery. Considering the nature of the treatment provided and the injury suffered, I am of the considered view that it would be appropriate to assess the disability at 10%.

8. Having reassessed the income and disability *supra*, I am of the considered view that the compensation under the different heads is also required to be enhanced appropriately. Hence, the compensation is reassessed as under:

Particulars	**Amount in Rs.**
Pain and Sufferings	45,000.00
Medical Expenses	14,399.00
Nourishment and attendant charges	10,000.00
Conveyance charges	10,000.00
Loss of amenities	20,000.00
Loss of income during the laid up period (9,500x3)	28,500.00
Future loss of income (9500x12x17x10%)	1,93,800.00
Total	**3,21,699.00**

9. Hence, the compensation is enhanced from Rs.1,94,000/- to **Rs.3,21,699/-.**

10. In view of the aforesaid reasons, I pass the following:-

ORDER

i. The Appeal is ***partly allowed***;

ii. The judgment and award dated 27.08.2019 passed in MVC.No.444/2019 by the Court of Motor Accidents Claims Tribunal and V Additional Judge, Mayo Hall Unit, Bengaluru, is modified;

iii. The claimant is entitled to a sum of ***Rs.*3,21,699/-** as against Rs.1,94,000/- along with an interest at 6% per annum from the date of petition till the date of realization;

iv. The judgment of the Tribunal insofar as the apportionment, deposit and release remain the same;

v. The enhanced compensation of ***Rs.1,27,699/-*** (Rs.3,21,699/- less

Rs.1,94,000/-) and the said amount is released in favour of the appellant;

vi. The Insurance Company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of six weeks from the date of receipt of the certified copy of this judgment;

vii. Registry is directed to return the Trial Court records to the Tribunal, along with certified copy of the order passed by this Court forthwith without any delay;

viii. Draw award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

KVR/List No.: 1 Sl No.: 37