IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 7120 OF 2025 (MV-I)

BETWEEN:

1. MOHAMMED ASHAM @ ASHAM
   S/O YAKBAI
   AGE ABOUT 46 YEARS
   R/A 402 KARNATAKA KOLACHE NIRMULANA
   PRADESHA JAI BHAVANESHWARI NAGAR
   BENGALURU NORTH
   BENGALURU 560096

...APPELLANT

(BY SRI. THIPPESWAMY B.C..,ADVOCATE)

AND:

1. VIJAYANAND TRAVELS PRIVATE LIMITED
   S.NO 58/2/3 GROUND FLOOR
   VADAGAON BUDRUK
   KATRAJ ROAD ROAD PUNE
   MAHARASHTRA 411041
   (RC OWNER OF BUS BG
   REG NO MH-12-VT-3524)

2. THE NEW INDIA ASSURANCE COPANY LLIMITED
   2-B UNITY BUILDINGS ANNEXE
   MISSION ROAD
   BANGALORE 27

...RESPONDENTS

Digitally signed by SHARADAVANI B
Location: HIGH COURT OF KARNATAKA

(BY SRI. K.NAGARAJAIAH ,ADVOCATE FOR R2)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.28.02.2025 PASSED IN MVC NO.981/2024 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES, PRL MACT, BENGALURU SCCH-1 PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

ORAL JUDGMENT

Heard the arguments of both sides.

2. This appeal is filed by the appellant-claimant against the judgment and the award of the tribunal passed in MVC No.981/2024 dated 28.02.2025 by the Principal MACT, (SCCH-1), Bengaluru.

3. Injured - claimant met with an accident on 02.12.2023 and filed claim petition claiming compensation of Rs.30,00,000/-. The tribunal considering the entire evidence on record granted Rs.2,95,665/- with interest at

the rate of 6% per annum from date of petition till realization.

4. Aggrieved by the said award, he preferred an appeal and mainly contended that he examined the doctor as PW3 and he assessed the disability of the whole body as 14% and that of the left lower limb as 30% and there is amputation of second toe and the said disability is 4%. The amounts granted by the tribunal under the other heads are meager and thus requested for enhancement of the compensation.

5. Learned counsel for the respondent stated that he is not a treated doctor and contended that the amounts granted for pain and suffering and loss of amenities seeks no interference. Though it is stated that petitioner was aged 45 years and driving auto rickshaw and earning Rs.40,000/- per month but he has not filed any income proof.

6. As he met with an accident in the year 2023, his notional income is to be taken as Rs.16,000/- per month as per the chart prepared by Karnataka State Legal Services Authority. He filed driving license and his date of birth in the driving license is shown as 15.06.1973.

7. He met with an accident on 02.12.2023, as such as on the date of accident, he was aged 50 years and the multiplier applicable is '13'. PW3 in his evidence stated that petitioner suffered crush injury to left foot and ankle exposing the underlying bones and tendons with fracture of underlying bones, crush injury of right foot and assessed the whole body disability as 14%.

8. Appellant/claimant was treated with wound debridgement and primary closure initially, later he developed gangrene of the 2nd toe hence he underwent disarticulation of the second toe and the petitioner has unhealthy scar over the left ankle and foot, restricted left ankle and foot movements, absence of the 2nd toe. Recent X-ray of the left leg shows evidence of the 2nd toe

amputation. Doctor assessed the physical disability of the left lower limbs as 30%, amputation of the 2nd toe as 4% and whole body physical disability as 14%.

9. This Court finds it reasonable to take the disability as 14% as it is a amputation of the 2nd toe. The loss of future earning capacity comes to Rs.16,000/- X 12 X 13 X 14% = Rs.3,49,440/-.

10. Tribunal granted Rs.12,665/- towards medical expenses and it needs no interference. He was hospitalized for a period of 10 days. The tribunal granted reasonable amounts under the other heads. This Court finds it reasonable to grant an amount of Rs.30,000/- for transportation, extra nourishment and attendant charges.

11. The total compensation comes to Rs.3,49,440/- +Rs.12,665/- + Rs.75,000/-+ + Rs.1,28,000 + Rs.60,000/- + Rs.30,000/- = Rs.6,55,105/-.

12. Thus, in all, the claimants are entitled for the following compensation:

SL.NO.	PARTICULARS	AMOUNT (IN.RS.)
1.	Loss of future earning capacity	3,49,440.00
2.	Towards medical expenses	12,665.00
3.	Pain and sufferings	75,000.00
3.	Transportation, extra nourishment and attendant charges	30,000.00
4.	Loss of income during laid up period	1,28,000.00
5.	Loss of amenities and future unhappiness	60,000.00
	TOTAL	**6,55,105/-**

13. The Tribunal has awarded the compensation of Rs.2,95,665/- but the appellant/claimant is entitled to total compensation of Rs.6,55,105/-. Compensation is enhanced from Rs.2,95,665/- to Rs.6,55,105/-.

14. Accordingly, I proceed to pass the following:

ORDER

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

ii. The judgment and award passed by the Tribunal in M.V.C.No.981/2024 dated 28.02.2025 by the Principal MACT, (SCCH-1) Bengaluru is hereby modified holding that the claimant is entitled for enhanced total compensation of Rs.6,55,105/- along with interest @ 6% p.a.

iii. Learned counsel of the Insurance company contended that there is no endorsement of the transport on the driving license and without any endorsement he was driving the vehicle and it is violation of the terms and conditions of the policy. But the said issue was not raised before the tribunal. As such tribunal held that the driver was having valid driving license and it is not in violation of the terms of the policy. They have not filed another appeal. The tribunal directed respondent No.2 to deposit the amount. Therefore, this Court finds no reason to interfere with the finding of the tribunal regarding deposit of amount and the fixing of liability on the respondent No.2.

iv. Insurance company already deposited the award amount of Rs.2,95,665/- before the tribunal. Therefore, they are directed to deposit the enhanced

compensation of Rs.3,59,440/- with interest within 1 month from the date of this order. On such deposit, appellant/claimant alone is permitted to withdraw the entire amount along with interest on the said amount.

v. Ordered accordingly.

Sd/-
(P SREE SUDHA)
JUDGE

RCK
List No.: 1 Sl No.: 35