IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 7977 OF 2024 (MV-I)

BETWEEN:

MR BHARATH V S
S/O SATHYANARAYANA V C
NOW AGED ABOUT 37 YEARS
PRESENTLY R/AT NO.58,
4TH CROSS
MEENAKSHI LAYOUT
KODIPALYA KENGERI
BANGALORE 5960 060.

APPELLANT

(BY SRI. GOPAL KRISHNA N., ADVOCATE FOR SMT. SUSHMITHA G)

AND:

Digitally signed by PADMASHREE SHEKHAR DESAI
Location: High Court of Karnataka

1. MR MAHESHA
   S/O MAHADEVAPPA
   MAJOR IN AGE
   RESIDING AT NO. 12/3
   KODIPALAYA
   CHUDENAPURA POST
   BALAKRISHNA CIRCLE
   KENGERI BANGALORE 560 060.

2. THE BRANCH MANAGER
   TATA AIG GENERAL INSURANCE CO LTD
   NO. 69, 2ND FLOOR
   JP AND DEVI JAMBUKESHWAR ARCADE

VASANTHNAGAR
MILLER ROAD
BENGLAURU 560 052.

RESPONDENTS

(BY SRI. S.V HEGDE MULKHAND.,ADVOCATE FOR R2;
V/O DT 22.04.2026 NOTICE TO R1 D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 31.07.2024 PASSED IN MVC NO. 4893/2022 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES, MEMBER, PRINCIPAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION AND ETC,..

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/claimant under Section 173(1) of Motor Vehicles Act, 1988 challenging the judgment and award dated 31.07.2024 passed in MVC.No.4893/2022 on the file of the learned Chief Judge, Court of Small Causes and Member, Principal MACT, Bengaluru, seeking enhancement of compensation.

2. Heard the arguments of learned counsel for the appellant and learned counsel for respondent No.2/Insurance Company. The ranks of the parties are retained as per Tribunal for the sake of convenience.

3. The petitioner/injured/claimant met with an accident on 28.02.2022 and filed claim petition claiming compensation for Rs.15,00,000/-. The Tribunal considering the entire evidence on record granted Rs.2,85,700/- with interest on 6% per annum from the date of filing the petition till the date of deposit. Being aggrieved by the said order present appeal is filed mainly contending that the claimant sustained injuries which are grievous in nature and he also examined the doctor as PW.2, he stated that petitioner sustained physical disability of 47% of the lower limb and 16% to the whole body. But the Tribunal has not granted any amount under the heads of loss of future earning capicity. Though doctor stated that he requires another surgery and estimate the cost of Rs.1,00,000/-, no amount is granted towards future medical expenses. The Tribunal granted meager amounts under the other heads and interest is to be granted at the higher rate and thus requested for enhancement of compensation.

4. Learned counsel for respondent No.2 contended that the petitioner is an auditor and he filed IT returns for the assessment years 2022-23, 2021-22, 2020-21, and he has not sustained any loss of income. He himself stated that he is practicing as an auditor along with his assistants and conducting his audit work. Therefore, there is no loss of income for him and thus the Tribunal rightly not granted any amount under the said head.

5. Learned counsel for the appellant stated that he is not a qualified chartered accountant, but as an auditor he requires extensive traveling for doing the audit work. So he filed IT returns for the assessment years 2022-23, 2021-22, 2020-21 with an income of Rs.4,08,150/-, Rs.4,80,980/- Rs.4,78,230/- respectively. The Tribunal considering average of the income taken his monthly income as Rs.25,000/- per month and it is confirmed. The claimant was aged 35 years and the relevant multiplier is '16'. The petitioner has filed wound certificate as Ex.P.6 and discharge summary as Ex.P.8, inpatient and outpatient records as Exs.P16 and 17. He also examined the doctor as PW.2 who is orthopedist surgeon. He stated that the petitioner has sustained closed comminuted

right proximal tibia bicondylar fracture extending into mid shaft, closed proximal third shaft fracture of right fibula. He under went surgery under GA for open reduction and internal fixation with CC screws for medial right tibia depressed fracture, open reduction and internal fixation with plate osteosynthesis. He has pain, swelling and limp in the right leg. He has pain over right knee with stiffness and movement restriction. He has difficulty in walking pain while climbing the stairs, standing on both legs, standing on affected leg walking for few steps. He also has difficulty in bending the knee, sitting cross legged on floor, squatting and kneeling down. On examination he has mild stiffness and restriction of movements in right ankle and more stiffness and restricted movements in right knee. X-ray taken shows satisfactory union of the fractures, osteoporosis and secondary osteoarthritis changes of right knee joint. He suffers from permanent residual physical disability of 47% of lower limb and total whole body disability is 16%. He further stated that he requires one more surgeries for implant removal which will cost him approximately Rs.1,00,000/-.

6. In the cross-examination, he stated that the doctor was the trauma team doctor along with other doctors who treated the petitioner and conducted operation. But his name is not mentioned in the discharge summary, but it is mentioned as orthopedists. Though his name is not mentioned in the case sheet, his signatures are available. He further stated that there will be improvement in the condition of petitioner after the operation. They advised him physiotherapy treatment, but still there is a restriction of movements. The petitioner was having difficulty in walking, but he can do writing job by sitting.

7. The petitioner was admitted for a period of five days and the doctor assessed the disability as 47% to the lower limb. The Tribunal has not granted any amount under the head of loss of future earning capacity on the grounds that as per the IT returns he has not sustained any loss of income. Considering the nature of injuries and disability of the petitioner this Court finds that disability will have impact on his work. Thus the disability assessed by the doctor is to be taken as 16% for the purpose of calculation. The petitioner is entitled for loss of future earning capacity of 25,000 X 12 X 16 X16% =Rs.7,68,000/-. The Tribunal granted Rs.75,000/- towards pain

and suffering, Rs.1,25,000/- towards loss of income during laid period, and Rs.60,000/- towards loss of amenities. The Tribunal granted reasonable amounts for pain and suffering, towards loss of amenities and also for loss of income during laid up period which are confirmed. The petitioner is entitled for Rs.30,000/- for transportation, extra nourishment and attendant charges. The Tribunal has already granted Rs.20,700/- towards treatment charges and it is confirmed. The doctor PW.2 stated that the petitioner require another surgery for the removal of implant which is estimated cost of Rs.1,00,000/-, this Court finds it reasonable to grant Rs.50,000/- towards future medical expenses.

8. Thus in all, compensation awarded by this Court is as below:

Sl.Nos.	**Particulars**	**Amount in Rs.**
1.	Loss of future earning capacity	7,68,000/-
2.	Treatment charges	20,700/-
3.	Future medical expenses	50,000/-
4.	Towards loss of amenities	60,000/-
5.	Towards food, nourishment and attendant charges	30,000/-
6.	Towards loss of income during laid up period	1,25,000/-
7.	Pain and suffering	75,000/-
	Total	**11,28,700/-**

9. Hence, the appellant-claimant is entitled for a total compensation of Rs.11,28,700/- along with interest at the rate of 6% p.a.

10. In the result, the following order is passed:

ORDER

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

ii. The judgment and award dated 31.07.2024 passed in MVC.No.4893/2022 on the file of the learned Chief Judge, Court of Small Causes and Member, Principal MACT, Bengaluru, is modified.

iii. The claimant is entitled to a sum of **Rs.11,28,700/-** along with interest at 6% p.a., from the date of petition till the date of realization, instead of Rs.8,43,000/- granted by the tribunal.

iv. Respondent No.2/Insurance Company has already deposited the award amount before the Tribunal. Therefore, respondent No.2/Insurance Company is directed to deposit the enhanced compensation of **Rs.8,43,000/-** along with the interest at the rate of 6% within one month from the date of this order.

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

Sd/-
(P SREE SUDHA)
JUDGE

PNV
List No.: 1 Sl No.: 7