HC-KAR

NC: 2026:KHC:21239
MFA No. 8051 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 8051 OF 2024 (MV-I)

BETWEEN:

1. SRI JOSHUA D
   S/O DAYANANDA HAMESH PAUL
   NO. 1726, 4TH CROSS, CSI CHURCH
   CHRISTIAN COLONY, 62YEARS
   MANDYA-571 401.

…APPELLANT

(BY SRI. GIRIMALLAIAH,ADVOCATE)

AND:

1. IFFCO-TOKIO GENERAL
   INSURANCE COMPANY LTD
   SHANTHI TOWERS, 5TH FLOOR
   NO.141, 3RD MAIN, EAST OF
   NGEF LAYOUT,KASTURINAGAR,
   BENGALURU-560 043
   BY ITS MANAGER.

2. MR. NAGARAJ.G
   S/O GOVINDA REDDY
   MAJOR, NO.11, 3RD MAIN,
   5TH CROSS, SRI.GURURAGHAVENDRANAGAR
   7TH PHASE, J.P.NAGAR,
   BANGALORE-560 078.

…RESPONDENTS

(BY SRI. SHANKARA REDDY C,ADVOCATE)

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

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 30.09.2024 PASSED IN MVC

NO. 5451/2021 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES AND MEMBER, 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

This appeal is preferred by the appellant-claimant against the award dated 30.09.2024 passed in MVC No.5451/2021 by the Court of Small Causes & Member, Prl. Motor Accident Claims Tribunal, Bengaluru (SCCH-1) [for short 'Tribunal'] claiming enhancement of compensation.

2. The claimant Joshua met with an accident on 27.10.2021 and filed claim petition claiming compensation of Rs.30,00,000/- towards injuries sustained by him. The Tribunal considering the evidence on record granted compensation of Rs.19,46,600/- along with interest at 6% p.a. from the date of petition till the date of deposit. Aggrieved by the said order, this appeal is preferred in

which he mainly contended that the appellant has sustained communited fracture to both bones of left leg open Type-3B and multiple injuries over forehead, face and right shoulder and admitted in the hospital for nearly 77 days or for more than a year, attended follow up treatment, under rest till today and not able to do labour work. Further, the appellant examined the doctor as PW.2 wherein the doctor has assessed permanent physical disability to lower limb at 48% and 24% to the whole body and the appellant incurred huge medical expenses. It is submitted that the Tribunal awarded Rs.6,12,000/- towards loss of future earnings by considering the income of the appellant at Rs.15,000/-p.m. and the Tribunal has considered functional disability at 20% by taking multiplier at 17 which is on the lower side. Lastly, he contended that the compensation awarded under other heads are meager. Therefore, he requested for enhancement of compensation.

3. On contrary, learned counsel for respondents contended that the doctor has assessed the disability to lower limb at 48% and the 1/3rd of the same comes to 16% but the Tribunal has considered the functional disability at 20% which is on the higher side. Further, he contended that they have not preferred any appeal.

4. Heard the arguments advanced by the learned counsel for appellant and learned counsel for respondent No.1 -Insurance company.

5. It is stated that the appellant is working as a delivery boy at Zomata by earning Rs.25,000/- per month, but he has not produced the income proof. As the petitioner met with an accident in the year 2021, his notional income is to be taken as ₹15,000/- per month as per the chart prepared by Karnataka State Legal Services Authority and the Tribunal has rightly taken the income of the appellant at Rs.15,000/- per month. In Ex.P11, i.e. the driving license wherein the date of birth of appellant is shown as 21.08.1996. As such, the age of the appellant

as on the date of accident is 25 years 2 months. But the Tribunal has considered the age of appellant as 26 years and considered the multiplier as '17'. In this regard, the counsel appearing for the appellant relied upon the decision rendered by the Division Bench of this Court in ***MFA Nos.101337 and 101664 of 2021 dated 19.06.2023***, in the case of ***Divisional Controller, MSRTC vs. Bismilah and Others reported in 2024 ACJ 173,*** wherein it is held at paragraph Nos. 16 and 17 which reads as under:

> "*16. The Corporation contended that the Tribunal has committed error in applying multiplier 13 as the deceased was aged 50 years 6 months. The Hon'ble Supreme Court in the case of Sarla Verma v. Delhi Transport Corporation, 2009 ACJ 1298 (SC), has determined the multiplier based on the age group between 46-50 and multiplier 11 for the age group between 51-55. Keeping in mind the ratio laid down in the decision of the Hon'ble Apex Court in Sarla Verma referred supra, we are of the considered view that the deceased was in the age group of 46-50 and not 51-55 as he has not completed 51 years of age on the date of accident. Hence, we are of the view that the Tribunal was justified in applying the*

multiplier of 13 which does call for interference.

17. The Corporation contended that the Tribunal ought to have applied the split multiplier as the deceased was left with only 4 years of service in Indian Army, and claimants are not entitled for 30 per cent addition towards future prospects. It will be useful to refer to the decision of the Hon'ble Supreme Court in the case of K R Madhusudhan, 2011 ACJ 743 (SC). Paras 14 and 15 reads as under:

"(14)…. The High Court introduced the concept of split multiplier and departed from the multiplier used by the Tribunal without disclosing any reason therefore. The High Court has also not considered the clear and corroborative evidence about the prospect of future increment of the deceased…

(15) We are, thus, of the opinion that the judgment of the High Court deserves to be set aside for it is perverse and clearly contrary to the evidence on record, for having not considered the future prospects of the deceased and also for adopting a split multiplier method."

6. This Court places reliance on the decision rendered by the Hon'ble Apex Court in the case of ***Shashikala & Others vs. Gangalakshamma & Another reported in 2015 (9) SCC 150,*** wherein it is stated that

the Tribunal has considered the age of the appellant as 46 years and adopted the multiplier as '14'. But it is observed that the age of the appellant as on the date of accident is 45 years, 5 months and 28 days. In the case on hand, the appellant was aged 25 years 2 months. Therefore, it is appropriate to consider the age of the appellant as 25 years and the appropriate multiplier to be taken as '18'. But the Tribunal has considered the age of the appellant as 26 years which is not correct as discussed above.

7. The appellant examined the doctor as Pw.2 wh is an orthopaedic surgeon at Mithra Multispeciality Hospital, Neeladri jigani Link Road, Bangalore wherein he was stated that the appellant was met with an accident and admitted to the hospital for treatment and he was diagnosed to have communited fracture of the left leg both bones and underwent the following surgeries:

- Wound debridment and ankle spanning ex-fix on 27.10.2021
- Ilizarove external fixation on 07.12.2021

- Fibula strut grafting plus illizarov external fixator readjustment plus stimulon application on 29.12.2021
- Left tibia corticotomy and bone graft on 22.03.2022
- Left fasiocutaneous flap on 09.06.2022

and assessed the total disability of lower limb at 48% of the limb and that to the whole body is 24%. The patient is having difficulty with these disabilities and it is coming in the way of working. Further, he stated that now the fracture is united and the appellant was in house approximately for a period of 1 1/2 years. Therefore, the Tribunal has rightly considered the functional disability at 20% and this Court finds no reason to interfere. As the disability is to the extent of 20%, the appellant is entitled for future prospects as per the decision of the Division Bench of this Court passed in ***MFA.No.103807/2016 C/w MFA Nos. 103835/2016 & 103807/2018 dated 27.05.2022*** *in the case of* ***New India Assurance Company Vs. Abdul S/o Mehaboob Tahasildar & Others.*** Further, the appellant is aged 25 years and is entitled for 40% towards future prospects. Accordingly,

the loss of future earning capacity comes to **Rs.9,07,200/-** (15,000+40%x12x18x20%).

8. Considering the nature of injuries, his avocation, hospitalization and other relevant factors, this Court finds that the Tribunal has rightly awarded reasonable amount of compensation under other heads and the same is confirmed.

9. Thus in all, components awarded by this Court are as below,

Particulars	Amount in Rs.
Loss of future earning	9,07,200.00
Medical expenses	6,84,600.00
Pain and suffering	2,00,000.00
Loss of amenities	1,25,000.00
Attendant, conveyance and nourishment charges	1,00,000.00
Loss of income during laid up period	2,25,000.00
Total	**22,41,800.00**

10. Compensation is enhanced from Rs.19,46,600/- to ₹22,41,800/- and the enhanced compensation is

₹**2,95,200/-,** which carries interest at the rate of 6% per annum. Further, the insurance company has already deposited the award amount before the Tribunal.

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

ORDER

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

ii. The judgment and award dated 30.09.2024 passed in MVC No.5451/2021, by the Court of Chief Judge, Court of Small Causes & Member, Prl. Motor Accident Claims Tribunal, Bengaluru (SCCH-1), is modified;

iii. Respondent No.1 is directed to deposit the enhanced compensation of **Rs.2,95,200/-** with interest at the rate of 6% per annum within one month from the date of this order on such deposit and

iv. Appellant-claimant is permitted to withdraw the entire compensation with interest accrued on it.

Sd/-
(P SREE SUDHA)
JUDGE

SSD
List No.: 1 Sl No.: 9