IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 9695 OF 2025 (MV-I)

BETWEEN:

SMT P SHOBAMMA
W/O M.VENKATESHAPPA,
AGED ABOUT 45 YEARS,
RESIDING AT DAYANANDA ROAD,
SRINIVASPURA TOWN,
SRINIVASPURA TALUK,
PIN-563 135.

APPELLANT

(BY SRI. GURUDEVA PRASAD KT.,ADVOCATE)

AND:

1. M/S TATA AIG GEN INS CO.LTD
   BY ITS REGIONAL MANAGER
   NO.69, 2ND FLOOR, JP AND DEVI
   JAMBUKESHWAR ARCADE, MILLERS ROAD,
   BENGALURU-560 052.

2. MRS.INDRANI
   W/O JAYARAMAREDDY,
   AGED ABOUT 30 YEARS,
   R/AT NO.262, 4TH CROSS,
   BELLANDUR, BENGALURU-560 103.

RESPONDENTS

(BY SRI. JS. HALASHETTI.,ADVOCATE FOR R1;
V/O DTD 07.01.2026 NOTICE TO R2 D/W)

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 DT. 29.04.2025 PASSED IN MVC NO.2172/2023 ON THE FILE OF THE XIIII ADDITIONAL SMALL CAUSES JUDGE, ACJM, COURT OF SMALL CAUSES, MEMBER, MACT-15, BENGALURU SCCH-15, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION AND ETC,.

THIS APPEAL, COMING ON FOR ADMISSION, 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 29.04.2025 passed in MVC.No.2172/2023 on the file of the learned XIII Additional Judge Court of Small Causes and ACJM, Member, MACT-15, Bengaluru (SCCH-15), seeking enhancement of compensation.

2. Heard the arguments of learned counsel for the appellant and learned counsel for respondent No.1/Insurance Company. The ranks of the parties are retained as per Tribunal for the sake of convenience.

3. The petitioner/injured met with an accident on 05.12.2022 and filed the claim petition before the Tribunal for

compensation of Rs.10,00,000/-. The Tribunal considering the entire evidence on record granted an amount of Rs.25,000/- with interest at the rate of 6% p.a., from the date of filing the petition till the date of deposit. Being aggrieved by the said order, this appeal is filed and mainly contended that the petitioner sustained right clavicle fracture which is grievous in nature. She also examined the doctor and the doctor assessed the disability as 9%. The petitioner was aged 43 years, working as a tailor and earning Rs.1,000/- per day. But the Tribunal has granted global compensation of Rs.25,000/- on the ground that he is not a treated doctor and no amount is granted under the head loss of future earning capacity and under other heads and interest is to be granted at the higher rate and thus requested for enhancement of compensation.

4. Though the petitioner stated that she was earning Rs.1,000/- per day, she has not filed any income proof. As she met with an accident in 2022, this Court finds it reasonable to take her notional income as Rs.15,500/- per month as per the chart preferred by the Karnataka State Legal Services Authority. The Tribunal has observed that as per age per Ex.P9 the petitioner was aged 43 years 11 months 4 days. Hence, the

age of the petitioner is taken as 44 years and the relevant multiplier as '14'. The petitioner filed Ex.P5 wound certificate, Ex.P.10 is the clinical note, Ex.P11 is X-ray and examined the doctor as PW2. He is an orthopaedic surgeon. He stated that the petitioner sustained right clavicle fracture. She was treated at silicon city hospital conservatively and on regular follow up in the same hospital and the fracture united. The petitioner now complains of pain and weakness in the right upper limb, unable to lift weights in the right upper limb and carry her work coolie. She has bump in the right clavicular region restricted right shoulder movements with wasting of the right deltoid muscles. Recent X-ray of shows united fracture with implant in-situ. The doctor assessed the disability of right arm as 28% and the whole body disability as 9%. It is stated that she is advised physiotherapy. Learned counsel for respondent No.2 stated that he is not a treated doctor and no discharge summary is produced. The Tribunal has observed that the petitioner has no problem in blood circulation and muscles and she has not undergone any operation and she was not treated as an inpatient. Learned counsel further submits that fracture of the clavicle is an ornamental glow bone, as such, it will not have

any impact on her work. The doctor PW.2 also not issued disability certificate. Thus, the Tribunal has rightly not considered the disability.

5. Admittedly, she is a tailor and sustained fracture of a clavicle, the doctor assessed the disability as 28%. Therefore, this Court finds it reasonable to take 1/3rd of 28% i.e., 9%. Loss of future earning capacity comes to Rs.15,500/- X 12 X 14 X 9% =Rs.2,34,360/-. The petitioner has not filed any medical bills to show that she incurred any medical expenses. Therefore, she is not entitled for any medical expenses. She has not filed any discharge summary to show the period of hospitalization. Considering the nature of injuries sustained this Court finds it reasonable to grant an amount of Rs.10,000/- towards pain and sufferings, Rs.10,000/- towards loss of amenities, Rs.10,000 for transportation, food and nourishment and attendant charges. The petitioner might not have attended the any work at least for two months, it is reasonable to grant and amount of Rs.31,000/- towards loss of income during laid up period.

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

Sl.Nos.	Particulars	Amount in Rs.
1.	Towards pain and suffering	10,000/-
2.	Towards loss of amenities	10,000/-
3.	Towards transportation, food, nourishment	10,000/-
4.	Towards loss of income during laid up period	31,000/-
5.	Towards loss of future earning capacity	2,34,360/-
	Total	**2,95,360/-**

7. Hence, the appellant-claimant is entitled for a total compensation of Rs.2,95,360/- along with interest at the rate of 6% p.a.

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

ORDER

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

ii. The judgment and award dated 29.04.2025 passed in MVC.No.2172/2023 on the file of the learned XIII Additional Judge Court of Small Causes and ACJM,

Member, MACT-15, Bengaluru (SCCH-15), is modified.

iii. The claimant is entitled to a sum of **Rs.2,95,360/-** along with interest at 6% p.a., from the date of petition till the date of realization, instead of Rs.25,000/- granted by the tribunal.

iv. Respondent No.1/Insurance Company has already deposited the award amount before the Tribunal. Therefore, respondent No.1/Insurance Company is directed to deposit the enhanced compensation of **Rs.2,70,360/-** 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.

vi. The claimants are not entitled for interest for the delayed period of 143 days as per I.A. No.1/2025 order dated 07.01.2026.

Sd/-
(P SREE SUDHA)
JUDGE

PNV
List No.: 1 Sl No.: 55