KARC500013772024

IN THE COURT OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL AT SINDHANUR

Present :- SRI. LAKSHMIKANTH JANAKIRAM MISKIN, M.A., LL.M
Senior Civil Judge & J.M.F.C.
Sindhanur

M.V.C. No.587/2024

Dated: 02nd day of June 2026

Petitioner: -

Anand Kumar S/o Devappa
Age: 23 years, Occ: Agri.,
R/o Parasapur, Tq. Shahapur, Dist. Yadagiri
now residing at Upparwadi, Sindhanur,
Tq. Sindhanur, Dist. Raichur.

(Represented by: Sri. SB. Advocate)

-Versus-

Respondents: -

1) Sharanabasava S/o Amarayya
Age: 26 years, Occ: Driver of Toyota Innova
Reg.No.KA-03/MK-1423, R/o Chikkakadabur
Tq. Maski, Dist. Raichur.

2) Rajashekharagouda S/o Sharanappagouda
Age: Major, Occ: Owner of Toyota Innova
Reg.No.KA-03/MK-1423, R/o Ward No.5,
Near Daivada Katte, maski,

3) The Branch Manager/Manager
United Insurance Com., Ltd.,
Raichur

Policy No.2402033123P110539228
date of issue: 23.11.2023 to 22.11.2024

(R1 & 2 by: Sri.PP Advocate)
(R3 by: Sri.RJ Advocate)
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~:: <u>JUDGMENT</u> ::~

This petition filed under Section 166 of Motor Vehicle Act claiming compensation from the respondents, in connection with the Road Traffic Accident dated 13.07.2024.

2. **<u>The brief facts of the petition:-</u>**

On 13.07.2024 at about 09:30 PM, the petitioner and his relative Thimmareddy were returning to their native on their two wheeler Honda Shine, reg No: KA-33/ED-7320, after visiting Anjanadri temple, Tq Gangavathi. The petitioner was pillion raider, where as said Thimmareddy was raiding the motor cycle. The said Thimmareddy was raiding the motor cycle on left side of the road in slow and cautious manner by observing traffic conditions and rules. While they were passing near Mullur camp on Sindhanur Maski Main road, at that time, the respondent No;1 came driving his Toyota Innova reg No: KA-03-MK-1423 driving in high speed in rash and negligent manner endangering to human life and thereby dashed his Innova car from back side to the aforesaid motor cycle on which the petitioner was proceeding. Due to the said accident, the petitioner and his relative Thimmareddy both fell down and said petitioner sustained grievous injuries severe brain injury and other vital parts of the body and he became unconsious. Thereafter the petitioner was shifted to Adarsha Hospital Sindhanur and considering the serious condition of petitioner, the doctors suggested for higher treatment as such the petitioner was shifted to Naveen Hospital, Raichur, as an in patient, for a period of 20 days at Naveen Hospital, wherein the doctors kept him in ICU for extra medical treatment. The petitioner was discharged with instructions to follow up treatment. As such, the claimant till today regularly visiting the doctor by incurring huge expense of Rs. 6,00,000/-. Due to said grievous injuries and fracture, the petitioner is having physical disability. That due to said grievous injury the petitioner is constantly feeling head ache, blur vision, giddiness, unable to concentrate on his work and due to which is unable to do agriculture work. Prior to accident, the claimant used to earn Rs. 3,00,000/- per annum from agriculture and used to contribute the same to his family maintenance. Now, the claimant is not in a position to do work and earn money like prior, thus he has lost future earnings and forced him to lead miserable life and suffer financial stringency, which all has happened only due to the rash and negligent driving of Innova car by the respondent No.1. Hence, respondents are liable to pay compensation of Rs.45,00,000/-. With these averments the petitioners pray for allow the above petition.

3. In pursuance of notice, the respondent No.1 to 3 have appeared through their counsels. The respondent No.2 and 3 have filed written statement.

4. **<u>The case of the respondent No.2 in brief:-</u>**

The claim petition is frivolous, vexatious and far away from the truth. Hence the same is not maintainable either in law or on facts, because the petitioners in collusion with police have created a false story to grab the compensation amount. The petitioner is put to strict proof of all such allegations of not expressly herein are denied by this respondent. Therefore the claim petition is liable to be dismissed with costs. The contents of columns No 1 to 3 pertaining to details injured hence it needs no reply. The contents of columns No 4 to 6 pertaining to injured occupation, income are all false and toto denied and the claimant is hereby called upon to strict proof of the same. The respondent denies the contents of the claim petition under columns No 8 & 9 as false. The contents of the claim petition under columns No 11 TO 15 are all false, denied. Hence the petitioner is put to strict proof of the same. Those, the respondent deny the contents of the claim petition under columns No 22 as false. That the claim made by the petitioner on various heads Rs.35,00,000-00 is too high, exorbitant and un reasonable and without any basis and petitioner not entitled for the same. Only with an ill motive to secure the compensation has come up with the above false petition for compensation. The petitioner is not at all entitling to any compensation from this respondent. In the event of allowing the petition and by awarding the compensation, then the same shall be fastened upon the respondent No. 2, since the vehicle in question is duly insured with respondent No.2 and the insurance is also in force on the date of accident. Respondent No: 1 also possesses a valid driving license (DL) on the day of alleged accident. On these grounds the respondent No.2 prayed for dismissal of this petition.

5. **<u>The case of the respondent No.3 in brief:-</u>**

This petition is not maintainable either in law or on facts. It is denied petition averments about accident, rash and negligent driving, injuries to the petitioner, medical expenses, loss of income etc., The rider of the offending vehicle did not posses valid and effective driving license at the time of alleged accident. There is a breach of terms and conditions of the policy. For that the respondent is not liable to pay the compensation to the petitioner. On these grounds the respondent No.3 prayed for dismissal of this petition.

6. In this back ground this tribunal has framed the following issues:-

ISSUES

1. Whether the petitioner proves that he sustained grievous injuries due to actionable negligent driving of Toyota Innova bearing Reg.No.KA-03/MK-1423 by its driver i.e., respondent No.1 in a Road Traffic Accident which took place on 13.07.2024 at about 9.30 PM, on Sindhanur – Maski road, near Mullur camp?

2. Whether the respondent No.3 prove that the driver of the offending vehicle committed breach of the terms of policy?

3. Whether the petitioner is entitled for compensation claimed? If so, what amount and from whom?

4. What order or award?

6. In proof of the above issues the petitioner himself examined as PW1 and examined one witness as PW2 and all documents got marked as ExP1 to Ex.P12 and closed his side evidence. The Senior Administration Officer of respondent No.3 company examined as RW1 and all documents got marked as Ex.R1 to Ex.R4 and case is posted for arguments.

7. I have heard arguments on both sides. My findings on the above issues are as follows:-

ISSUE NO.1 :	In the Affirmative
ISSUE NO.2 :	In the Negative
ISSUE NO.3 :	In the Partly Affirmative
ISSUE NO.4 :	As per final order for the following.

~:: REASONS ::~

8. **ISSUE NO.1** :-This Court perused the material available on record. A perusal of the material available on record make it clear the that investigation officer filed charge - against the driver of the offending vehicle. . Thus in the considered opinion of this court charge - sheet filed by IO , is a prima facie proof of negligence on the part of the driver of the offending vehicle. It is to be noted that the investigation officer files charge-sheet after scientific investigation from all angles. Thus in the considered opinion of this court, charge - sheet filed by IO in crime relating to crime of accident is a prima facie proof of negligence of the driver of the offending vehicle. In this regard it is beneficial to refer to the decision of the Hon'ble High Court of Karnataka reported in 2018 ACJ 91 =[2016 SCC ONLINE KAR 8864] in between Jacob Vs. The Managing Director, K.S.R.T.C. Depot , para No.8 reads as under.

M.F.A. No. 534 of 2012.
M.F.A. No. 533 of 2012.
M.F.A. No. 4066 of 2012 (MV).
M.F.A. No. 4065 of 2012 (MV).
M.F.A. No. 534 of 2012 :

M.F.A. No. 533 of 2012 :
M.F.A. No. 4066 of 2012 :
M.F.A. No. 4065 of 2012 :
Dated-18.11.2016.

8. Re: Negligence:

The case of the Corporation is that IMV Report at Exhibit.P4 shows, the front right side corner and right side bumper of the bus was damaged and front side of the auto was damaged. The bus was moving on the main road, the auto in which the deceased was traveling was coming from opposite direction and took a right turn/'u' turn towards eastern side of the road without giving any signal and as such, the negligence ought to have been fixed on the driver of the auto. This argument of the Corporation is not worthy of acceptance, the crucial witness to establish the factum of negligence would have been the driver, no driver of the offending vehicle was examined by the Corporation. In such circumstances, an adverse inference has to be drawn against the Corporation, more particularly, against the driver of the offending vehicle. Contributory negligence has to be proved on factual grounds. A mere allegation/accusation would not be suffice to ascertain the contributory negligence on the part of the person. Contributory negligence has to be proved by leading direct and corroborating evidence which is conspicuously missing in the present case. **On the other hand, charge-sheet filed against the driver of the offending vehicle indicates negligence on the part of the driver of the offending vehicle. No case is made out by the Corporation to fix the negligence on the part of the driver of the auto.**

The ratio (underline emphasized by me) laid down by the Hon'ble High Court of Karnataka reported in 2018 ACJ 91 =[2016 SCC ONLINE KAR 8864] in between Jacob Vs K.S.R.T.C. Depot is that charge-sheet filed against the driver of the offending vehicle indicates negligence on the part of the driver of the offending vehicle . In the present case also as discussed above the investigation officer as shown at charge - sheet filed by IO in crime relating to accident of this case that he is solely negligence for causing the accident In view of the law laid down by the of the Hon'ble High Court of Karnataka reported in 2018 ACJ 91 =[2016 SCC ONLINE KAR 8864] in between Jacob Vs K.S.R.T.C. Depot driver of the offending vehicle is alone responsible for the accident.

9. In this regard it is beneficial to refer to the decision of the Hon'ble Supreme Court of India reported in reported in 2025 SCC ONLINE SC 497 in between Ranjeet vs Abdul Kayam Neb, in , the para No.4 of the order of the Hon'ble Supreme Court of India reads as under.

CIVIL APPEAL NO. OF 2025
(Arising out of SLP(C), No. 10351/2019)
Dated-25-02-2025

3. In an accident which took place on 13.06.2006, one ‘Ramkaran’ was alleged to have been hit by the bus leading to his death. An FIR was lodged wherein charge sheet was submitted against the driver of the bus. On the claim being preferred to the Motor Accident Claims Tribunal[1], **since, the eye-witnesses were not produced, the Tribunal refused to**

<u>grant any compensation</u>. The decision of the Tribunal was upheld by the High Court.

4. **<u>It is settled in law that once a charge sheet has been filed and the driver has been hereinafter referred to as "the Tribunal". held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus driver. Even if the eye- witnesses are not examined</u>**, that will not be fatal to prove the death of the deceased due to negligence of the bus driver.

5. In view of the aforesaid facts, we are of the opinion that the Tribunal and the High Court both manifestly erred in law in refusing to grant any compensation to the claimants.

The ratio (underline emphasized by me) laid down in the decision of the Hon'ble Supreme Court of India reported in reported in 2025 SCC ONLINE SC 497 in between Ranjeet vs Abdul Kayam Neb is that charge-sheet filed by the investigation officer is sufficient to prove negligent driving of the offending vehicle without examining eye-witnesses.

10. A perusal of the P-3 charge-sheet marked at exhibit P-3 make it clear that the driver of the offending vehicle hit the bike of the petitioner being ridden by the from behind on Maski-Sindhanoor national High-way. If the driver of the offending vehicle who causes accident trying to overtake the vehicle of the petitioner and hit from behind, the driver of the vehicle who hit the another vehicle from behind is solely responsible for causing accident. In this regard it is beneficial to refer to the decision of the Hon'ble Supreme Court of India reported

in 2011 AIR SC 2436 = [2011 (6) scc 425] = 2011 ACJ 1677] = [2011 AIR SCW 3625 IN BETWEEN Jawahar Singh vs. Bala Jain, para No.11 reads as under.

S.L.P. (Civil) 8660 of 2011
With
S.L.P. (C) Nos. 864 to 865 of 2010.
Dated . 09.05.2011

> **11]. We cannot shut our eyes to the fact that it was Jatin, who came from behind on the motorcycle and hit the scooter of the deceased from behind. The responsibility in causing the accident was, therefore, found to be solely that of Jatin**. However, since Jatin was a minor and it was the responsibility of the Petitioner to ensure that his motorcycle was not misused and that too by a minor who had no license to drive the same, the Motor Accident Claims Tribunal quite rightly saddled the liability for payment of compensation on the Petitioner and, accordingly, directed the Insurance Company to pay the awarded amount to the awardees and, thereafter, to recover the same from the Petitioner. The said question has been duly considered by the Tribunal and was correctly decided. The High Court rightly chose not to interfere with the same.

The ratio (underline emphasized by me) laid down by to refer to the decision of the Hon'ble Supreme Court of India reported in 2011 AIR SC 2436 = [2011 (6) scc 425] = 2011 ACJ 1677] = [2011 AIR SCW 3625 IN BETWEEN Jawahar Singh vs. Bala Jain is that that it was rider of the motor bike who came from behind on the motorcycle and hit the scooter of the deceased from behind the responsibility in causing the accident was, found to be solely that of the driver of the offending vehicle coming from behind.

11. In the present case also the driver of the offending vehicle Respondent which who in a negligence manner driven his vehicle and hit the motor bike of the petitioner from behind alone is responsible for causing accident. In view of law laid down by to refer to the decision of the Hon'ble Supreme Court of India reported in 2011 AIR SC 2436 = [2011 (6) scc 425] = 2011 ACJ 1677] = [2011 AIR SCW 3625 IN BETWEEN Jawahar Singh vs. Bala Jain it is the driver of the offending car who hit from behind alone responsible for causing accident. Hence issue No.1 is answered in affirmative.

12. **ISSUE NO.2:-** It is the specific defense of the Respondent Insurance company that the rider of the offending bike did not possess driving liscence hence there is a breach of policy. Therefore it is not liable to indemnify and the petition is not maintainable as against the Respondent Insurance company . But a perusal of the charge-sheet marked at exhibit P-43 make it clear that IO did not file charge-sheet for violating Section 3 R/W Section 181 of the Motor Vehicles Act, 1988 for driving the offending vehicle without driving license for driving vehicles in contravention of section 3 or section 4 of the said Motor Vehicles Act, 1988. If at all the rider of the offending vehicle did not possess the driving license as on the date of accident, the IO would have filed the charge-sheet against the rider of the offending vehicle

13. The entire burden of proving driving license is on the Respondent Insurance company and not on the claimants. In this regard it is beneficial to refer to the decision of the Hon'ble High Court of Karnataka (DHARWAD BENCH) reported in 2011 ACJ 1464 in between Shivarama Parameshwara Hegde vs. Subray Honnappa Naik , para No.14 and para No15 read as under.

[M.F.A. No. 2623 of 2004 (MV);
Dated-01.04.2009]

14]. The endorsement we have referred above spells out clearly that permanent licence issued was valid from 28.1.2000 to 27.1.2020 and it is undoubtedly issued to the claimant much prior to the occurrence of the accident in this case. This document also substantiates undoubtedly that the respondent No. 1 is authorized to drive transport vehicle up to 5.1.2004. This is only a condition on which license with a validity from28.1.2000 to 27.1.2020 is issued, which means that the respondent No. 1 was duly authorised to drive a transport vehicle for the period indicated above. The accident in this case has occurred on 31.12.2000 which is certainly after the issuance of the driving licence to respondent No. 1. Therefore, the contention of the insurer that 6.1.2001 should be taken as the date to reckon the validity of licence is untenable and we reject the same.

15]. We also reject the contention of the insurer that as per the regulations of the Motor Vehicles Act, licences are issued initially for a period of three years, after which the licence expires. This is because the insurance company has on its own produced Exh. R3 in its evidence for

> placing reliance on it. It is, therefore, bound by the documentary evidence which it has produced**. Since the same is not brought into question and as no official from the Motor Vehicles Department has been examined by the insurance company to elicit as to whether suchan issuance is legally permissible or not, we reject the arguments to the contrary advanced in this case and hold that there was a valid driving** licence possessed by respondent No. 1 effective as on the date of accident, i.e., 31.12.2000. This point is, therefore, answered in favour of the appellant and against the insurer.

The ratio (underline emphasized by me) laid down by the Hon'ble High Court of Karnataka (DHARWAD BENCH) reported in 2011 ACJ 1464 in between Shivarama Parameshwara Hegde vs. Subray Honnappa Naik is that where in it is held that, in order prove that the driver of the vehicle did not possess the driving license the Respondent Insurance Company has to examine RTO official to substantiate its defense of not possessing the driving license.

14. Thus self serving statements of the Respondent Insurance company did not examine jurisdictional RTO to prove the fact that that driver of the offending did not possess the driving license. Thus without any concrete documentary evidence from the office of RTO, the defense of the respondent that the driver of the offending has violated the conditions of the policy cannot be accepted as proving of possessing of driving license is on the Respondent Insurance company and not on the petitioners. Hence, issue No.2 answered in negative.

15. **<u>ISSUE NO.3:</u>-** A perusal of the wound certificate dated-14-07-2024 issued by the Dr.K Ramapp, Naveen hospital at Raichur marked at exhibit P-5 and the disability certificate dated-11-10-2025, issued by Dr. Rajendra Kothari, Kothari hospital at Kalaburgi marked at exhibit P-8 make it clear that the petitioner sustained Postural giddiness is noted, severe reeling sensation when changed the from sitting to standing position, unable to perform his daily routine physical duties without someone's help, neck pain and pain full neck movements, unable to lift or carry weight on head due to pain in vault, tremere in hands noted while stretching or holding objects, partial loss of hearing in R-ear on Rennis and Webber test, Loss of smell sensation from both nostrils.

16. A perusal of the discharge summary dated 06.02.2024 issued by Naveen Hospital, Raichur it is clear that the injuries sustained by the claimant are serious in nature.

17. Further a perusal of disability certificate dated-11-10-2025, issued by Dr. Rajendra Kothari, Kothari hospital at Kalaburgi marked at exhibit P-8 make it is clear that claimant sustained Postural giddiness is noted, severe reeling sensation when changed the from sitting to standing position, unable to perform his daily routine physical duties without someone's help, neck pain and pain full neck movements, unable to lift or carry weight on head due to pain in vault, tremere in hands noted while stretching or holding objects, partial loss of hearing in R-ear on Rennis and Webber test, Loss of smell sensation from both nostrils. Further claimant sustained Patient had grievous traumatic brain injury as found clinically and radiologically following accident. Presently - There is giddiness, reeling,

headache, heaviness in head etc and decrease in power in hands and legs, tremers in hands, inability to balance and move forward, physical difficulties in performing daily routine functions are due to intracranial contusions, hemorrhages and contusions in brain that accounts for neurological disability of 30%. Partial loss of hearing in R-ear is due to damage of auditory nerve that accounts for cranial nerve disability of 10%. Loss of smell sensation is due to damage of both olfactory nerves' accounts for disability of 20%. (each nerve 10%) which are serious in nature.

18. For assessment of compensation, life cannot be valued. Similarly, no human being can put any monetary value of his limb or of any other human being. How does one assess the value of the loss of all faculties when some victim of an accident loses his moving mental faculties and lives in no motion, vegetative state. The courts can only grant compensation for the pecuniary and monetary loss caused and some other expenses, but no court can even attempt to grant compensation for loss of life or limb. Mainly pecuniary loss has to be assessed. Nominal damages for expenses, loss of consortium and conventional damages. Long expectation of life is connected with earning capacity. In its very nature whenever a Tribunal or a Court is required to fix the amount of compensation in cases of accident, it involves some guess work, some hypothetical consideration, some amount of sympathy linked with the nature of the disability caused.

19. It is made clear by this court that while determining the amount of compensation which is to be in the real sense ' damages' which in turn appears to it to be ' just and reasonable' . It has to be borne in mind that compensation for

loss of limb or life can hardly be weighed in golden scales. But at the it is made clear by this court that that the compensation is not expected to be a windfall for the victim. Statutory provisions clearly indicate that the compensation must be ' just' and it cannot be a bonanza not a source of profit but the same should not be a pittance. This court has a duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be ' just' compensation is a vexed question. There can be no golden rule applicable to all cases for measuring the value of human life or a limb. Measure of damages cannot be arrived at by precise mathematical calculations.

20. It would depend upon the particular facts and circumstances, and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of ' just' compensation which is the pivotal consideration. Though by use of the expression ' which appears to it to be just' a wide discretion is vested in the court. The determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression ' just' denotes equitability, fairness and reasonableness, and non-arbitrary. If it is not so it cannot be just. In this regard it is beneficial to refer to the decision of the Hon'ble Supreme Court of India reported in (2012) 12 SCC 274 in between K. Suresh vs New India Assurance Company Ltd. and Ors the para NO.2, para NO.7 to para No.10 read as under.

Civil Appeal No. 7603 of 2012[‡],
Dated-19-10-2012

2. Despite many a pronouncement in the field, it still remains a challenging situation warranting sensitive as well as dispassionate exercise how to determine the incalculable sum in calculable terms of money in cases of personal injuries. In such assessment neither sentiments nor emotions have any role. It has been stated in *Davies* v. *Powell Duffryn Associated Collieries Ltd. (No. 2)*[1] that it is a matter of pounds, shillings and pence. There cannot be actual compensation for anguish of the heart or for mental tribulations. The quintessentiality lies in the pragmatic computation of the loss sustained which has to be in the realm of realistic approximation. **Therefore, Section 168 of the Motor Vehicles Act, 1988 (for brevity "the Act") stipulates that there should be grant of "just compensation". Thus, it becomes a challenge for a court of law to determine "just compensation" which is neither a bonanza nor a windfall, and simultaneously, should not be a pittance**.

7 While assessing the damages there is a command to exclude considerations which are in the realm of speculation or fancy though some guesswork or some conjecture to a limited extent is inevitable. That is what has been stated in *C.K. Subramania Iyer* v. *T. Kunhikuttan Nair*[8]. Thus, some guesswork, some hypothetical considerations and some sympathy come into play but, a significant one, the ultimate determination is to be viewed with some objective standards. To elaborate, neither the Tribunal nor a court can take a flight in fancy and award an exorbitant sum, for the concept of conventional sum, fall of money value and reasonableness are to be kept in view. Ergo, in conceptual eventuality "just compensation" plays a dominant role.

8. The conception of "just compensation" is fundamentally concretised on certain well-established principles and accepted legal parameters as well as principles of equity and good conscience. In *Yadava Kumar* v. *National Insurance Co. Ltd.*[9], a two-Judge Bench, while dealing with the facet of "just compensation", has stated thus: (SCC p. 345, para 15)

"*15.* It goes without saying that in matters of determination of compensation both the Tribunal and the court are statutorily charged with a responsibility of fixing a 'just compensation'. It is obviously true that determination of a just compensation cannot be equated to a bonanza. At the same time the concept of 'just compensation' obviously suggests application of fair and equitable principles and a reasonable approach on the part of the Tribunals and the courts. This reasonableness on the part of the Tribunal and the court must be on a large peripheral field."

In *Concord of India Insurance Co. Ltd.* v. *Nirmala Devi*[10] this Court has expressed thus: (SCC p. 366, para 2)

"*2.* … **the determination of the quantum must be liberal, not niggardly since the law values life and limb in a free country in generous scales**."

9. In *Helen C. Rebello* v. *Maharashtra SRTC*[11], while dealing with concept of "just compensation", it has been ruled that: (SCC p. 108, para 28)

"*28.* … The word 'just', as its nomenclature, denotes equitability, fairness and reasonableness having a large peripheral field. The largeness is, of course, not arbitrary; it is restricted by the conscience which is fair, reasonable and equitable, if it exceeds; it is termed as unfair, unreasonable, unequitable, not just."

The field of wider discretion of the Tribunal has to be within the said limitations. It is required to make an award determining the amount of compensation which in turn appears to be "just and reasonable", for compensation for loss of limbs or life can hardly be weighed in golden scales as has been stated in *State of Haryana* v. *Jasbir Kaur*[12].

10. It is noteworthy to state that an adjudicating authority**, while determining the quantum of compensation, has to keep in view the sufferings of the injured person which would include his inability to lead a full life, his incapacity to enjoy the normal amenities which he would have enjoyed but for the injuries and his ability to earn as much as he used to earn or could have earned. Hence, while computing compensation the approach of the Tribunal or a court has to be broad based.** Needless to say, it would involve some guesswork as there cannot be any mathematical exactitude or a precise formula to determine the quantum of compensation. In determination of

> compensation the fundamental criterion of “just compensation” should be inhered.

The ratio (underline emphasized by me) laid down by the Hon'ble Supreme Court of India reported in (2012) 12 SCC 274 in between K. Suresh vs New India Assurance Company Ltd. and Ors is that while determining the quantum of compensation, the approach of the Tribunal or a court has to be broad based and court shall award just compensation.

21. It is admitted fact that the petitioner fractured due to accident . No amount of money can compensate this child for the injuries suffered by her. Claimant can never be put back in the same position. However, compensation has to be determined in terms of the provisions of Motor Vehicles Act, 1988. The Motor Vehicles Act, 1988 requires determination of payment of just compensation and it is the duty of the court to ensure that she is paid compensation which is just. By making a payment of compensation for the damages, the court cannot put back again the claimant into his original position. On the date of determination of the compensation, he is being compensated but he cannot sue again, therefore, the compensation must be full and final while determining the same.

22. In relation to assessment of all damages for personal injury it is made clear by this court that the basis of assessment of all damages for personal injury is compensation. Awarding reasonable compensation to the injured is to put the claimant in the same position as he was in so far as money can. Perfect compensation is hardly possible but one has to keep in mind that the victim has done no wrong he has suffered at the hands of the wrongdoer and the court must take care to give him full and fair compensation for that he had suffered. In some cases for personal injury, the claim could be in respect of life time's earnings lost because, though he will live, he cannot earn his living. In others, the claim may be made for partial loss of earnings. Each case has to be considered in the light of its own facts and at the end, one must ask whether the sum awarded is a fair and reasonable sum.

23. In this regard it is beneficial to refer to the decision of the Hon'ble Supreme Court of India reported in reported in 2010 (10) SCC 254 =[AIR AIR SCW 6085] in between Arvind Kumar Mishra VS. New India Assurance Co. Ltd, the para No.7 reads as under.

Civil Appeal No. 5510 of 2005.
Dated-29.09.2010.

7. We do not intend to review in detail state of authorities in relation to assessment of all damages for personal injury. Suffice it to say that the basis of assessment of all damages for personal injury is compensation**. The whole idea is to put the claimant in the same position as he was in so far as money can. Perfect compensation is hardly possible but one has to keep in mind that the victim has done no wrong; he has suffered at the hands of the wrongdoer and the court must take care to give him full and fair compensation for that he had suffered.** In some cases for personal injury, the claim could be in respect of life time's earnings lost because, though he will live, he cannot earn his living. In others, the claim may be made for partial loss of earnings.

> Each case has to be considered in the light of its own facts and at the end, one must ask whether the sum awarded is a fair and reasonable sum. The conventional basis of assessing compensation in personal injury cases - and that is now recognised mode as to the proper measure of compensation - is taking an appropriate multiplier of an appropriate multiplicand.

The ratio (underline emphasized by me) laid down by the decision of the Hon'ble Supreme Court of India reported in reported in 2010 (10) SCC 254 =[AIR AIR SCW 6085] in between Arvind Kumar Mishra VS. New India Assurance Co. Ltd is that intention behind awarding of compensation is to put the claimant in the same position as he was in so far as money can . Further the Hon'ble Supreme Court of India held that the court must take care to give him full and fair compensation for that he or she had suffered.

24. In view of the said legal position, the compensation can be assessed in pecuniary heads i.e. the loss of future earning, medical expenses including future medical expenses, attendant charges and also in the head of transportation including future transportation. In the non-pecuniary heads, the compensation can be computed for the mental and physical pain and sufferings in the present and in future, loss of amenities of life , loss of expectancy in life, inconvenience, hardship, discomfort, disappointment, frustration, mental agony in life, etc.

25. In the absence of income proof, the notional income as per the notional income chart fixed by the Karnataka State Legal Services Authority shall be taken . In this regard it is beneficial to refer to the decision of the Hon'ble High Court of

Karnataka (KALABURAGI BENCH) reported in AIRONLINE 2022 KAR 921 (DB) in between Managing Director NEKRTC, Sarige Sadan, Central Office, Kalaburagi. VS Rachamma Subash Jaishetty Since Deceased By Her LR's the para No.13 reads as under.

Miscellaneous First Appeal - 201591 of 2021,
Dated-08/12/2022

13. It is not in dispute that Smt. Rachamma met with an accident on 11.04.2018 and sustained grievous injuries and she succumbed to the injuries. The legal representatives filed a claim petition contending that the deceased was aged about 60 years at the time of accident and was doing agriculture and getting income of Rs.9,000/- per month. In order to substantiate the contention of the petitioners, the petitioners have not produced any income proof of the deceased Rachamma**. In the absence of income proof, the Tribunal, taking into consideration the notional income of the year 2018, as per the chart fixed by the Karnataka State Legal Services Authority** and also considering the age of deceased Rachamma has considered the notional income of the deceased as Rs.9,000/- per month and further considering the age of the deceased as 65 years, awarded a compensation under the head of loss of dependency at Rs.6,04,800/- and also awarded compensation under the head of loss of consortium and loss of estate and funeral expenses and medical expenses and nursing charges. The petitioners have not placed any material to show the income of the deceased. On the contrary, the petitioners

> themselves have admitted that deceased Rachamma was getting income of Rs.9,000/- per month. Considering the admission of the petitioners, the Tribunal was justified in considering the notional income of the deceased Rachamma at Rs.9,000/- p.m. Hence, in view of the above discussion, the petitioners have not made out any ground for enhancement of compensation.
>
> Accordingly, we answer point No.1 in negative.

The ratio (Under line emphasized by me) the Hon'ble High Court of Karnataka (KALABURAGI BENCH) reported in AIRONLINE 2022 KAR 921 (DB) in between Managing Director NEKRTC, Sarige Sadan, Central Offices, Kalaburagi VS Rachamma Subash Jaishetty Since Deceased By Her LR's is that In the absence of income proof, the notional income as per the chart fixed by the Karnataka State Legal Services Authority shall be taken.

26. There is no material to show the exact income of petitioner. Thus this court would have to rely on notional income for the year 2022 fixed by the KSLSA vide direction letter dated 26-02-2022 at Bangalore . Admittedly the accident took place in the year of 2024. The notional income for the year 2022 fixed by the KSLSA vide direction letter dated 26-02-2022 at Bangalore is Rs. 14,750/- for the districts coming under the jurisdiction of the Hon'ble High Court of Karnataka, (KALABURGI), Bench . But, accident has taken place in the year of 2024. This court would add 500-00 for the year 2023, and 500 for the year 2024 which comes to Rs.15,750-00 Thus this court would take notional income of the petitioner at Rs.15,750-00. Hence income of the petitioner can be assessed at Rs. 15,750-

00/- . A perusal of the disability certificate dated-11-10-2025, issued by Dr. Rajendra Kothari, Kothari hospital at Kalaburgi marked at exhibit P-8 the disability of the claimant is assessed at 51%. But said disability is excessive. It is just and necessary to assess the disability of the petitioner at 30%.

27. The deceased or the injured as the case may be was self-employed or on a fixed salary, an addition of 40% of the established income should be added where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased or the injured as the case may be was between the age of 50 to 60 years should be regarded as the necessary method of computation. In this regard it is beneficial to refer to the decision of the Hon'ble Constitution Bench of the Hon'ble Supreme Court of India reported in 2017 AIR SC 5157 = [2017 A C J 2700] =[2017 (13) SCALE 12] in between National Insurance Company Limited vs Pranay Sethi, (SC)(Constitution Bench) the para No.61 reads as under.

Special Leave Petition (Civil) No. 25590 of 2014.
With
Special Leave Petition (Civil) No. 16735 of 2014, Civil Appeal No. 6961 of 2015, Special Leave Petition (Civil) No. 163 of 2016, Special Leave Petition (Civil) No. 3387 of 2016, Special Leave Petition (Civil) No. 7076 of 2016, Special Leave Petition (Civil) No. 32844 of 2016, Special Leave Petition (Civil) No. 16056 of 2016, Special Leave Petition (Civil) No. 22134 of 2016, Special Leave Petition (Civil) No. 24163 of 2016, Civil Appeal No. 8770 of 2016, Civil Appeal Nos. 8045-8046 of 2016, Special Leave Petition (Civil) No. 26263 of 2016, Special Leave Petition (Civil) No. 25818 of 2016, Special Leave Petition (Civil) No. 26227 of 2016, Special Leave Petition (Civil) Nos. 29520-29521 of 2016, Special Leave Petition (Civil) No. 35679 of 2016, Special Leave Petition (Civil) No. 34237 of 2016, Special Leave Petition (Civil) No. 36072 of 2016, Special Leave

Petition (Civil) No. 35371 of 2016, Special Leave Petition (Civil) No. 34395 of 2016, Special Leave Petition (Civil) No. 36027 of 2016, Special Leave Petition (Civil) No. 8306 of 2017, Special Leave Petition (Civil) No. 37617 of 2016, Special Leave Petition (Civil) No. 7241 of 2017, Civil Appeal No.12046 of 2017, Special Leave Petition (Civil) No. 17436 of 2017, Civil Appeal No. 8611 of 2017.

Dated. 31.10.2017.

61]. In view of the aforesaid analysis, we proceed to record our conclusions:-

(i) The two-Judge Bench in Santosh Devi should have been well advised to refer the matter to a larger Bench as it was taking a different view than what has been stated in Sarla Verma, a judgment by a coordinate Bench. It is because a coordinate Bench of the same strength cannot take a contrary view than what has been held by another coordinate Bench.

(ii) As Rajesh has not taken note of the decision in Reshma Kumari, which was delivered at earlier point of time, the decision in Rajesh is not a binding precedent.

(iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

(iv) **In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the**

warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

(v) For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paragraphs 30 to 32 of Sarla Verma which we have reproduced hereinbefore.

(vi) The selection of multiplier shall be as indicated in the Table in Sarla Verma read with paragraph 42 of that judgment.

(vii) The age of the deceased should be the basis for applying the multiplier.

(viii) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.
62]. The reference is answered accordingly. Matters be placed before the appropriate Bench.

Order accordingly

The ratio (underline emphasized by me) laid down by the Hon'ble Constitution Bench of the Hon'ble Supreme Court of India reported in 2017 AIR

SC 5157 = [2017 ACJ 2700] in between National Insurance Company Limited vs Pranay Sethi, (SC)(Constitution Bench) is that in case the deceased or the injured as the case may be was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation.

28. In the present case, injured-petitioner was 58 years at the time of accident as shown at charge-sheet marked at exhibit P-3. In view of law laid down by the Hon'ble Constitution Bench of the Hon'ble Supreme Court of India reported in 2017 AIR SC 5157 = [2017 ACJ 2700] in between National Insurance Company Limited vs Pranay Sethi, 10% of future prospects can be taken in the present case.

29. Future prospects is not restricted only to death case of MACT. IT can be extended to injury cases of permanent disability. . IT can be extended to injured having permanent disability. In a decision of the Hon'ble three Judges Bench decision of the Hon'ble Supreme Court of India reported in reported in AIR 2020 SC 4284 in between Erudhaya Priya VS State Express Transport Corporation Ltd, 'future prospects' was added even where physical disability was as low as 31.1% In this regard it is beneficial to refer to the decision of the Hon'ble three Judges Bench decision of the Hon'ble Supreme Court of India reported in reported in AIR

2020 SC 4284 in between Erudhaya Priya VS State Express Transport Corporation Ltd., the para No.7 and 8 read as under;

Civil Appeal Nos. 2811-2812 of 2020
(Arising out of SLP (C) Nos.8495-8496 of 2018),,
Dated- 27/07/2020

> 7. There are three aspects which are required to be examined by us:
> <u>(a) the application of multiplier of '17' instead of '18';</u>
>
> The aforesaid increase of multiplier is sought on the basis of age of the appellant as 23 years relying on the judgment in National Insurance Company Limited v. Pranay Sethi and Others. In para 42 of the said judgment, the Constitution Bench effectively affirmed the multiplier method to be used as mentioned in the table in the case of Sarla Verma (Smt) and Others. v. Delhi Transport Corporation and Another. In the age group of 15-25 years, the multiplier has to be '18' along with factoring in the extent of disability.
>
> The aforesaid position is not really disputed by learned counsel for the respondent State Corporation and, thus, we come to the conclusion that the multiplier to be applied in the case of the appellant has to be '18' and not '17'.
>
> (b)<u>Loss of earning capacity of the appellant with permanent disability of 31.1%</u>

In respect of the aforesaid, the appellant has claimed compensation on what is stated to be the settled principle set out in Jagdish v. Mohan and Others3 and Sandeep Khanuja v. Atul Dande and Another4 . We extract below the principle set out in the Jagdish case (supra) in para 8:

"8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:

(i) Pain, suffering and trauma resulting from the accident;

(ii)<u>Loss of income including future income;</u>

(iii) The inability of the victim to lead a normal life together with its amenities;

(iv) Medical expenses including those that the victim may be required to undertake in future; and (v) Loss of expectation of life."

[emphasis supplied]

The aforesaid principle has also been emphasized in an earlier judgment, i.e. the Sandeep Khanuja case (supra) opining that the multiplier method was logically sound and legally well-established to quantify the loss of income as a result of death or permanent disability suffered in an accident.

In the factual contours of the present case, if we examine the disability certificate, it shows the admission/hospitalization on 8 occasions for various number of days over 1½ years from August 2011 to January 2013. The nature of injuries had been set out as under:-

"Nature of injury:
(i) compound fracture shaft left humerus
(ii) fracture both bones left forearm
(iii) compound fracture both bones right forearm
(iv) fracture 3rd , 4th and 5th metacarpals right hand
(v) subtrochanteric fracture right femur
(vi) fracture shaft left femur
(vii) fracture both bones left leg"

We have also perused the photographs annexed to the petition showing the current physical state of the appellant, though it is stated by learned counsel for the respondent State Corporation that the same was not on record in the trial court. Be that as it may, this is the position even after treatment and the nature of injuries itself show their extent. Further, it has been opined in para 12 of Sandeep Khanuja case (supra) that while applying the multiplier method, future prospects on advancement in life and career are also to be taken into consideration.
We are, thus, unequivocally of the view that there is merit in the contention of the appellant and the aforesaid principles with regard to future prospects must also be applied in the case of the appellant taking the permanent disability as 31.1%. The quantification of the same on the basis of the judgment in National Insurance Co. Ltd. case (supra), more specifically para 59.3, considering the age of the appellant, would be 50% of the actual salary in the present case.

(c)The third and the last aspect is the interest rate claimed as 12%

In respect of the aforesaid, the appellant has watered down the interest rate during the course of hearing to 9% in view of the judicial pronouncements including in the Jagdish case (supra). On this aspect, once again, there was no serious dispute raised by the learned counsel for the respondent once the claim was confined to 9% in line with the interest rates applied by this Court.

CONCLUSION

8.The result of the aforesaid is that relying on the settled principles, the calculation of compensation by the appellant, as set out in para 5 of the synopsis, would have to be adopted as follows:

HEADS	AMOUNT (INR.)
LOSS OF EARNING POWER (14648*12*18*31.1/100)	9,81,978.76
TOWARDS FUTURE PROSPECTS (50% ADDITION)	4,90,989
MEDICAL EXPENSES INCLUDING TRANSPORT CHARGES, NOURISHMENT ETC.	18,46,864
LOSS OF MATRIMONIAL ASPECTS	5,00,000
LOSS OF COMFORT, AMENITIES AND MENTAL AGONY	1,50,000
PAIN AND SUFFERING	2,00,000
TOTAL	41,69,831

The appellant would, thus, be entitled to the compensation of Rs. 41,69,831/- as claimed along with simple interest at the rate of 9% per annum from the date of application till the date of payment.

The ratio (underline emphasized by me) laid down in the decision of the Hon'ble Supreme Court of India reported in reported in AIR 2020 SC 4284 in between Erudhaya Priya VS State Express Transport Corporation Ltd that, 'future prospects' can be added even where physical disability was as low as 31.1% . IN the present case as pe the disability certificate dated-11-10-2025, issued by Dr. Rajendra Kothari, Kothari hospital at Kalaburgi marked at exhibit P-8 the disability is assessed at 51% (this court assssesed it 30%) In view of law laid down by the Hon'ble Supreme Court of India reported in reported in AIR 2020 SC 4284 in between Erudhaya Priya VS State Express Transport Corporation Ltd, in the present case also the petitioner is entitled for future prospectus.

30. A perusal of the disability certificate dated-11-10-2025, issued by Dr. Rajendra Kothari, Kothari hospital at Kalaburgi marked at exhibit P-8 make it clear that the petitioner is unable to walk properly. Further the disability certificate dated-11-10-2025, issued by Dr. Rajendra Kothari, a neurosurgeon, Kothari hospital at Kalaburgi marked at exhibit P-8 make it clear that the petitioner lost his past memory, unable to work, slow in answering and slow in understanding. The injuries as shown at the disability certificate dated-11-10-2025, issued by Dr. Rajendra Kothari, a neurosurgeon, Kothari hospital at Kalaburgi marked at exhibit P-8 are serious in nature and have a long lasting impact on his career. The injuries are serious neurological injuries that affected his memory. Thus it is just and proper to award 1,00,000-00 under loss of marriage prospectus

31. The age of the petitioner as per the wound certificate dated-14-07-2024 issued by the Dr.K Ramapp, Naveen hospital at Raichur marked at exhibit P-5 is

22 years. In view of law laid down by the Hon'ble Supreme Court of India reported in 2009 AIR SC 3104 = [2009 SCC (6) 121] Smt. Sarla Verma vs. Delhi Transport Corporation, for age group of 15-25 years, multiplier of 18 should be applied,

The proper multiplier is as under.

Rs.15,750 x 10
100 = Rs.6,300/- (40% future prospects added)

Rs.15,250/-
+Rs. 6,300/-
Rs.22,050/- (after adding 40% future prospects)

Rs.22,050 x 12 x 18 x 30
100 = 14,28,840/-

		Tribunal
Sl. No.	Particulars	Amount
1	Loss of future income	Rs.14,28,840/-
2	Pain and suffering	Rs.60,000/-
3	Loss of amenities	Rs.60,000/-
4	Medical expenses	Rs.2,75,025/-
5	Attendant charges	Rs.20,000/-
6	Conveyance charges	Rs. 30,000/-
7	Food and nourishment	Rs. 30,000/-

8	Loss of marriage prospectus	Rs.1,00,000/-
	Total	**Rs.20,03,865/-**

32. This court opined that the claimants entitled for 6% interest on the compensation amount **Rs.20,03,865/-** to be awarded. Hence Issue No.3 answered in Partly affirmative.

33. **ISSUE NO.4:-** In view of the findings on issue No.1 to 3 , I proceed to pass the following order:-

~:: O R D E R ::~

The petition filed under Section 166 of the Indian Motor Vehicle Act is partly allowed in following terms:-

The petitioner is awarded with the compensation of **Rs. 20,03,865/- (Rupees Twenty Lakhs Three Thousand Eight Hundred Sixty Five only)** to the petitioner with interest at the rate of 6% per annum from the date of petition till realization.

The respondent No.3 liable to pay compensation amount and he directed to deposit the compensation amount with in 30 days from the date of this Judgment to this tribunal.

Out of compensation 70% of the amount with proportionate interest of petitioner shall be deposited in any nationalized bank in his name for a period of 03 years free from all encumbrances. The remaining 30% amount with proportionate interest shall be disbursed to the petitioner by preparing K-II bill on his proper identification.

Advocate fee fixed at Rs.1000/- only

Draw award accordingly.

(Dictated to the Stenographer directly on computer, computerized by him and corrected and then pronounced by me in the open court on 02nd day of June 2026)

(Lakshmikant Janakiram Miskin)
Senior Civil Judge & M.A.C.T
Sindhanur

ANNEXURE

I) Witnesses examined on behalf of Petitioner.

PW-1 : Anandkumar

II) Documents exhibited on behalf of Petitioner:

Ex.P1	:	Certified copy of FIR
Ex.P2	:	Certificate copy of Complaint
Ex.P3	:	Certified copy of Charge sheet
Ex.P4	:	Certified copy of Spot panchanama
Ex.P5	:	Certified copy of Wound certificate
Ex.P6	:	Certified copy of IMV report
Ex.P7	:	Discharge summary
Ex.P8	:	Disability certificate
Ex.P9	:	Scaning reports
Ex.P10	:	108 Medical bills
Ex.P11	:	76 Medical prescriptions
Ex.P12	:	6 X-ray films

III) Witnesses examined on behalf of Respondents:

RW1 : Prashanth Reddy

IV) Documents exhibited on behalf of Respondents:

Ex.R1	:	Authorization letter
Ex.R2	:	Insurance policy
Ex.R3	:	Legal notice
Ex.R4 & 5	:	Postal receipts

(Lakshmikant Janakiram Miskin)
Senior Civil Judge & M.A.C.T
Sindhanur.