



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 25TH DAY OF APRIL, 2026
BEFORE
THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI
REVIEW PETITION NO. 5 OF 2026

BETWEEN:

THE UNITED INDIA INSURANCE CO LTD
NO. 109, SSI AREA, 5TH BLOCK, RAJAJINAGAR,
BANGALORE-560 010.
NOW REPRESENTED BY ITS
ASSISTANT MANAGER REGIONAL OFFICE,
5TH AND 6TH FLOOR, KRISHI BHAVAN,
NRUPATHUNGA ROAD, BANGALORE.

...PETITIONER

(BY SMT. HARINI M S.,ADVOCATE)

AND:

1. SRI NAGARAJU T A,
S/O LATE T.H. ANJANACHAR,
AGED ABOUT 52 YEARS,
R/O MATHRUSHREE NILAYA,
MEENAKSHINAGARA, KAMAKSHIPALYA,
BANGALORE-560 079.

2. SRI. K. MALLIKARJUNA,
NO.183, 17TH MAIN ROAD,
4TH CROSS, FF COLONY,
LAGGERE, BANGALORE-560 058.

...RESPONDENTS

(BY SRI.R L UDAYKUMAR.,ADVOCATE FOR R1)

THIS REVIEW PETITION FILED UNDER SECTION.114 R/W
ORDER 47 RULE 1 OF CPC 1908, PRAYING TO ALLOW THIS
REVIEW PETITION AND REVIEW THE JUDGMENT AND AWARD
DATED 15.09.2025 PASSED IN MFA NO.5242/2020 ONLY
UNDER THE HEAD LOSS OF FUTURE INCOME, IN THE INTEREST
OF JUSTICE AND EQUITY.





THIS REVIEW PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

This Court by order dated 15.09.2025 has partly allowed the MFA.No.5242/2020 filed by the claimant by enhancing the compensation from an amount of Rs.5,23,889/- to Rs.17,64,389/-.

2. The insurance company has filed this review petition before this Court stating that as per the evidence of the doctor, the claimant has recovered and in fact, as per the evidence, his salary has increased. Hence, he is not entitled for any amount under the head of 'loss of future income', but this Court has granted future loss of income. Hence, the insurance company is before this Court seeking review of the order. It is submitted that the order passed by this Court is contrary to the law laid down by the Hon'ble Apex Court in ***Raj Kumar Vs. Ajay Kumar and another***¹. Relying on paragraph Nos.12, 13, 14, 19 of the judgment, learned counsel submits that there is no loss of future income and claimant is not entitled for any

¹ (2011) 1 SCC 343



compensation under the said head. The Apex Court has observed as follows:

"12. Therefore, the Tribunal has to first decide whether there is any permanent disability and, if so, the extent of such permanent disability. This means that the Tribunal should consider and decide with reference to the evidence:

(i) whether the disablement is permanent or temporary;

(ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement;

(iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is, the permanent disability suffered by the person.

If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, it has to determine whether such permanent disability has affected or will affect his earning capacity.

13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or



(ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.

14. For example, if the left hand of a claimant is amputated, the permanent physical or functional disablement may be assessed around 60%. If the claimant was a driver or a carpenter, the actual loss of earning capacity may virtually be hundred per cent, if he is neither able to drive or do carpentry. On the other hand, if the claimant was a clerk in government service, the loss of his left hand may not result in loss of employment and he may still be continued as a clerk as he could perform his clerical functions; and in that event the loss of earning capacity will not be 100% as in the case of a driver or carpenter, nor 60% which is the actual physical disability, but far less. In fact, there may not be any need to award any compensation under the head of "loss of future earnings", if the claimant continues in government service, though he may be awarded compensation under the head of loss of amenities as a consequence of losing his hand. Sometimes the injured claimant may be continued in service, but may not be found suitable for discharging the duties attached to the post or job which he was earlier holding, on account of his disability, and may therefore be shifted to some other suitable but lesser post with lesser emoluments, in which case there should be a limited award under the head of loss of future earning capacity, taking note of the reduced earning capacity.

19. We may now summarise the principles discussed above:

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.



(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).

(iii) The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors."

3. Learned counsel appearing for the respondents submits that this Court has considered the fact that the claimant had sustained disability and had granted loss of future income. He has relied on the judgment of the Hon'ble Apex Court in case of ***Mohd. Sabeer alias Shabir Hussain Vs. Regional Manager, U.P. Stte Rad Transport Corporation***². The learned counsel appearing for the respondent has relied on paragraph No.16. In the very same judgment, the learned

² AIR 2023 SC 186



HC-KAR

NC: 2026:KHC:22891
RP No. 5 of 2026

counsel for the insurance company also relied on paragraph Nos.27, 28 and 29 which reads as follows:

"27. We are of the opinion that while awarding compensation in cases of permanent disability caused to claimants, the courts must look at the case in totality, and must consider the socio-economic background of the claimants. The Appellant herein comes from an economically weaker section of the society.

28. It is almost universally seen that persons from marginalized backgrounds often face an additional layer of discrimination due to bodily disabilities. This is because persons from marginalized sections of the society already face severe discrimination due to a lack of social capital, and a new disability more often than not compounds to such discrimination. In such circumstances, to preserve the essence of justice, it becomes the duty of the Court to at the very least restore the claimant as best as possible to the position he was in before the occurrence of the disability, and to do so must award compensation in a liberal manner.

29. While no material compensation can completely negate the trauma and suffering that the injured and his family faces, the law only knows the language of monetary compensation in such cases. It then becomes to duty of the court to translate the provisions of monetary compensation into a fabrication that helps the injured and his family in coping with their loss."

Based on the facts and circumstances of the case, the Court has granted the compensation.



4. Learned counsel for the claimant has also relied on another judgment of the Hon'ble Supreme Court in ***Dinesh Singh Vs Bajaj Allianz General Indurance Co. Ltd.,³***. He relied on paragraph No.10. Relying on that, it is submitted that as per the evidence of the doctor, he has suffered whole body disability of 30.05% and it will have an impact on the future earning of the claimant. This aspect was rightly considered by this Court and granted compensation. It is submitted that there is no error apparent on the face of the record, which calls for the review of the order passed by this Court.

5. Having heard the learned counsels on either side, perused the material on record. As rightly submitted by learned counsel appearing for claimant, the grounds which are raised for before this Court are not the grounds for review of the order. There is no error apparent on the face of the record. Both the judgments relied on by the petitioner as well as the respondents has to be applied basing upon the facts and circumstances of each case. In this case, the claimant has suffered 30.05% disability to the whole body. If a person has sustained disability to the whole body, it would have an impact

³ 2014 AIR SCW 2535



on the future life. The claimant is not having a secured employment, he is working with a chartered accountant. In those circumstances, considering the disability and the plight of the claimant, this Court has granted loss of future income due to disability. In the considered opinion of the Court and in the facts and circumstances of the case, no grounds are made out seeking review of the order. In that view of the matter, this Court is passing the following:

ORDER

- i. Accordingly, the review petition is ***dismissed.***
- ii. All pending I.As., in the writ petition shall stand closed.

**SD/-
(LALITHA KANNEGANTI)
JUDGE**