



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

MISCELLANEOUS FIRST APPEAL No. 605 OF 2023 (MV-I)

BETWEEN:

1. SRI BHASKAR M. KOTIAN,
S/O. MUDDU BELCHADA KEDHAR,
AGED ABOUT 59 YEARS,
REP. BY GUARDIAN/WIFE
SMT. ASHA BHASKAR KOTIAN,
W/O. BHASKAR KOTAIN,
AGED ABOUT 51 YEARS,
R/AT H.No.2-65 D,
NEAR BRAHMALINGESHWARA TEMPLE
UDYAVARA, UDUPI TALUK & DISTRICT.

...APPELLANT

(BY SRI NAGARAJA HEGDE, ADVOCATE)

AND:

1. SRI GREGORY D'COSTA,
S/O. MICHAEL D'COSTA





AGED ABOUT 77 YEARS
R/O. ADYAPADY
BAJPE POST, MANGALURU,
DAKSHINA KANNADA DISTRICT.

2. THE MANAGER
UNIVERSAL SOMPO GENERAL
INSURANCE CO.LTD.,
BRANCH OFFICE
3RD FLOOR, KVV SAMRAT,
217/A, 3RD MAIN, OUTER RING ROAD
KASTURI NAGAR, BENGALURU - 560 043.
REP. BY ITS BRANCH MANAGER.

...RESPONDENTS

(BY SRI B.C. SHIVANNEGOWDA, ADVOCATE FOR R2
NOTICE TO R1 DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 09.06.2022 PASSED IN MVC
No.428/2020 ON THE FILE OF THE PRL. SENIOR CIVIL JUDGE
CJM AND ADDITIONAL MACT, UDUPI, PARTLY ALLOWING THE
CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

Heard Sri Nagaraja Hegde, learned counsel for the appellant and Sri B.C. Shivanegowda, learned counsel for respondent No.2.

2. The claimant in M.V.C. No. 428/2020 is in appeal, seeking enhancement of the compensation awarded in the judgment and award dated 09.06.2022 passed by the Additional MACT and Principal Senior Civil Judge and CJM, Udupi (hereinafter referred to as "the Tribunal").

3. The appellant filed a claim petition seeking compensation for the accidental injuries sustained in the accident dated 08.12.2019 involving a car bearing Reg.No.KA-19-AC-1837. It is pleaded that, following the accident, the appellant was treated as an inpatient from 08.12.2019 to 13.01.2020 and incurred medical expenses exceeding Rs.4,00,000/-. It is further pleaded that the appellant was running a canteen, earning Rs.25,000/- per month, and was aged 57 years as on the date of the accident. It is contended that, on account of the accidental injuries, he has lost his source of income and has



suffered mental pain and agony. It is also pleaded that further medical treatment is required. It is alleged that the accident occurred due to the rash and negligent driving of the driver of the offending car.

4. Though notice was served on respondent No.1—owner of the vehicle, he failed to appear and was placed ex parte. Respondent No.2—insurer filed its written statement denying the averments made in the petition, and further disputed the time of the accident, the age of the claimant, and the medical expenses. It is also contended that the accident occurred due to the negligence of the appellant.

4.1 The wife of the appellant was examined as PW.1, and the doctor was examined as PW.2. In support of the claim petition, Exs.P1 to P23 were marked. The respondents neither adduced any evidence nor marked any documents.

4.2 The Tribunal, on the basis of the evidence on record, held that the accident occurred due to the rash and negligent driving of the driver of the offending car. Taking into consideration the



period of inpatient treatment, namely 37 days, the Tribunal awarded a sum of Rs.20,000/- towards pain and suffering.

4.3 Having regard to the medical evidence on record, wherein permanent disability was assessed at 59%, the Tribunal assessed the whole body disability at 20%. In the absence of proof of income, the Tribunal adopted a notional income of Rs.11,000/- per month and applied the multiplier of '9'.

4.4 In addition, the Tribunal awarded Rs.15,000/- towards conveyance charges, food, nourishment and attendant charges, and a further sum of Rs.15,000/- towards loss of amenities and unhappiness. In all, the Tribunal awarded a total compensation of Rs.5,73,300/-.

5. Sri Nagaraja Hegde, learned counsel appearing for the appellant, submits that the compensation awarded is inadequate and disproportionate to the actual loss and injury suffered. Learned counsel contends that the appellant has suffered 59% neurological disability and that the functional disability ought to have been assessed at 100%.



5.1 It is further submitted that the assessment of monthly income at Rs.11,000/- is on the lower side. Learned counsel also contends that the compensation awarded towards attendant charges is inadequate, having regard to the period of treatment undergone. It is further urged that the Tribunal has erred in not awarding compensation towards future prospects. Learned counsel submits that the compensation awarded under the heads of loss of amenities and conveyance charges is also on the lower side. Accordingly, it is prayed that the compensation be recomputed and reassessed.

6. Sri B.C. Shivanegowda, learned counsel appearing for respondent No.2—Insurer, submits that the compensation awarded by the Tribunal is based on the evidence on record. It is contended that, in the absence of proof of established income, the Tribunal was justified in assessing the notional income at Rs.11,000/- per month. Learned counsel further submits that, having regard to the evidence of the doctor assessing permanent disability at 59%, the Tribunal was justified in assessing the whole body disability at 20%. It is



also submitted that the compensation awarded under the other heads is just and proper.

7. Having considered the submissions made by learned counsel for the parties and upon perusal of the record, it is not in dispute that the age of the appellant, the applicable multiplier, and the cause of injuries arising out of the accident involving the car bearing Reg.No.KA-19-AC-1837 are established. The dispute is confined to the percentage of disability and the quantum of compensation awarded under various heads.

7.1 In order to establish the percentage of disability, the appellant examined PW.2. Admittedly, PW.2 is not the treating doctor. PW.2 has stated that the assessment of disability is in accordance with the Government Guidelines of 2018 and has assessed the disability at 59%. There is no material on record to establish any higher disability or to demonstrate that the assessment made is erroneous.

7.2 The Tribunal was, therefore, justified in taking one-third of the assessed disability towards whole body disability for the



purpose of computation of compensation. The assessment of disability is in consonance with the settled principles of law.

7.3 The appellant has contended that the nature of disability is neurological and that the functional disability is required to be assessed at 100%. However, no material is placed on record to establish any mental or neurological disability.

7.4 No doubt, compensation can be assessed on the basis of functional disability; however, such assessment would depend upon the avocation of the injured prior to the accident. In the present case, there is no evidence to establish the avocation of the appellant. In the absence of such evidence, it is not permissible to assess functional disability. Moreover, the plea of neurological disability is not supported by any cogent evidence.

8. Insofar as the income of the appellant is concerned, the accident is of the year 2019. In the absence of evidence to establish income, the Tribunal assessed the notional income at Rs.11,000/- per month. However, as per the chart prepared by the Karnataka State Legal Services Authority for the year 2019, the notional income is fixed at Rs.14,000/- per month.



Accordingly, the notional income assessed at Rs.11,000/- is re-assessed to Rs.14,000/- per month. Consequently, the loss of future earning capacity is recomputed as under:

$$\text{Rs.14,000/-} \times 12 \times 9 \times 20\% = \textbf{Rs.3,02,400/-}$$

9. The appellant was an inpatient for a period of 37 days. As per Ex.P5-wound certificate, the appellant sustained one grievous injury and two simple injuries. Though the appellant was treated as an inpatient for 37 days, he has neither undergone any surgery nor suffered any fractures. In that view of the matter, the compensation of Rs.20,000/- awarded towards pain and suffering is justified. The compensation awarded towards medical expenses is based on the medical bills, and we find no ground to interfere with the same. The compensation of Rs.15,000/- awarded towards loss of amenities and unhappiness is also just and proper.

9.1 However, the compensation of Rs.15,000/- awarded towards conveyance charges, food, nourishment and attendant charges is on the lower side. Having regard to the fact that the appellant was an inpatient for 37 days and would have required assistance of an attendant and incurred conveyance expenses,



the appellant is entitled to an additional sum of Rs.15,000/- under this head, making it Rs.30,000/- in total.

10. Accordingly, the total compensation is re-computed as under:

Sl. No.	Particulars	Compensation award by the Tribunal (in Rs.)	Modified compensation (in Rs.)
1.	Pain and sufferings including mental agony	20,000/-	20,000/-
2.	Loss of future earning capacity due to disability	2,37,600/-	3,02,400/-
3.	Medical expenses	2,85,659/-	2,85,659/-
4.	Conveyance charges, food, nourishment and attendant charges	15,000/-	30,000/-
5.	Loss of amenities and unhappiness	15,000/-	15,000/-
	Total	5,73,300/-	6,53,059/-
	Enhanced compensation	79,759/-	

The compensation awarded by the Tribunal is enhanced to Rs.6,53,059/- as against Rs.5,73,300/- awarded by the Tribunal.

11. For the reasons recorded above, the following:

ORDER

- (i) The appeal is ***allowed-in-part***.
- (ii) The judgment and award dated 09.06.2022 passed in M.V.C. No.428/2020



by the Additional Motor Accident Claims Tribunal & Principal Senior Civil Judge and CJM, Udupi, is modified by reassessing the compensation at Rs.6,53,059/- (Rupees Six Lakh Fifty Three Thousand and Fifty Nine only).

- (iii) Respondent No.2-Insurer is directed to deposit the remaining amount of compensation within eight weeks from the date of receipt of copy of this order.
- (iv) The order on interest and deposit as ordered by the Tribunal is maintained.
- (v) Draw modified decree accordingly.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE