



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 782 OF 2025 (MV-I)

BETWEEN:

SRI.KENCHEGOWDA
S/O LATE VENKATARAMAPPA,
ALIAS VENKATARAMEGOWDA,
NOW AGED ABOUT 74 YEAR,
RESIDING AT CHIKKA
ANKADAHALLI VILLAGE AND POST,
BANGARPET TALUK,
KOLAR DISTRICT

...APPELLANT

(BY SMT. SUSHMITHA G., ADVOCATE)

AND:

1. SRI. SURESH BABU K. R.,
S/O N. RANGANATHAN,
NOW AGED ABOUT 50 YEARS,
RESIDING AT NO.31,
VAISHNAVI NILAYA,
2ND CROSS, PIPELINE
ROBERTSONPET, K.G. F. TOWN,
KOLAR DISTRICT - 563 122.
2. UNITED INDIA INSURANCE COMPANY LTD.,
REGIONAL OFFICE, 5TH FLOOR,





KRISHI BHAVANA, NRUPATUNGA ROAD,
HUDSON CIRCLE,
BENGALURU - 560 001,
REP. BY ITS MANAGER.

...RESPONDENTS

(BY SRI. S.V. HEGDE MULKHAND, ADVOCATE FOR R2
V/O/ DATED 24.04.2026, NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 20.09.2024 PASSED IN MVC NO.7867/2019 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 filed by the appellant/petitioner under Section 173(1) of Motor Vehicles Act, 1988 challenging the judgment and award dated 20.09.2024 passed in MVC No.7867/2019 on the file of the Chief Judge, Court of Small Causes & Member, Principal M.A.C.T., Bangalore (S.C.C.H-1), seeking enhancement of the compensation.



2. Heard the arguments of learned counsel for the appellant and learned counsel for respondent No.2/insurance company. Vide order dated 24.04.2026 notice to respondent No.1 is dispensed with. The ranks of the parties are retained as per Tribunal for the sake of convenience.

3. The petitioner/injured claimant met with an accident on 05.09.2019 and filed claim petition claiming compensation of Rs.15,00,000/-. The Tribunal considering the entire evidence on record granted an amount of Rs.3,61,725/- 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.

4. Learned counsel for the petitioner submitted that the petitioner aged more than 70 years and sustained grievous fracture injuries and was examined the Doctor as PW.2. He is an Orthopaedic surgeon. The Doctor assessed the disability of the left lower limb at 36% and the whole body disability at 12%. But the Tribunal has not considered the disability and has not granted any amount under the head of 'loss of future earning capacity'. Doctor further stated that the petitioner



requires another surgery for removal of implants and estimated the cost of the same as Rs.35,000/- to Rs.40,000/-, which has not been granted by the Tribunal. Therefore, requested for enhancement of compensation.

5. Learned counsel for the respondent No.2 submitted that the petitioner, being aged more than 70 years, is not entitled to compensation under the head of 'loss of future earning capacity'. Therefore, Tribunal has not granted any amount under the same and it needs to be confirmed.

6. As per Aadhar card, the petitioner was born in the year, 1945 and was aged more than 70 years as on the date of accident. The relevant multiplier applicable is '5'. As he met with an accident in the year 2019, the notional income is taken as Rs.14,000/- per month. Petitioner filed Ex.P.5-Wound certificate, Exs.P.7 and 8-Discharge Summaries. The petitioner sustained the following injuries:

"a) Type II open comminuted fracture distal third right tibia & fibula with ankle subluxation right.

*For the above said injury he underwent surgery
i.e.,*



- a) Open reduction and internal fixation with LCP and screws for right distal fibula,*
- b) Closed reduction and internal fixation with K-wire fixation and external fixator for right tibia on 06.09.2019".*

7. PW.2-Doctor assessed the disability of the left lower limb at 36% and the whole body at 12%. He stated that the petitioner is working as agriculturalist and has difficulty in performing his work. He stated that the petitioner requires another surgery for removal of implants and estimated the cost to the same as Rs.35,000/- to Rs.40,000/-. In the cross-examination, he stated that the petitioner was about 70 years old at the time of the treatment. He further stated that as the age of the petitioner increases, the capacity of the bone will decrease and there is chance of fracture of bones if the aged person falls down in the ordinary course. One of the implants inserted is still in situ, but fractured bones are united. He also stated that the charges for surgery of removal of implants vary from hospital to hospital. Considering the medical evidence on record, this Court finds it reasonable to take 1/3rd of 36% i.e., 12%. Thus, the 'loss of future earning capacity' comes to **Rs.1,00,800/-**-(Rs.14,000/- x 12 x 5 x 12%). Tribunal granted



Rs.35,000/- towards 'Future Medical Expenses', and also granted **Rs.1,27,725/-** towards treatment charges/medical expenses, which is to be confirmed. He was admitted in the hospital for a period of 8 days. Considering his age, nature of injuries, period of hospitalization and other relevant factors, the Tribunal has already granted **Rs.75,000/-** towards 'pain and suffering', **Rs.15,000/-** towards 'attendant, conveyance and nourishment charges', **Rs.84,000/-** towards 'loss of income during treatment period' and **Rs.60,000/-** towards 'loss of amenities', which are reasonable and the same is confirmed.

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

Sl.Nos.	Particulars	Amount in Rs.
1.	Towards loss of future earning capacity	1,00,800/-
2.	Towards pain and suffering	75,000/-
3.	Towards treatment charges	1,27,725/-
4.	Towards conveyance, extra nourishment and attendant charges	15,000/-
5.	Towards loss of income during treatment period	84,000/-
6.	Towards future medical expenses	35,000/-
7.	Towards loss of amenities	60,000/-
	Total	4,97,525/-



9. Hence, the appellant-petitioner is entitled for a total compensation of Rs.4,97,525/- along with interest at the rate of 6% p.a.

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

ORDER

- i. The appeal is ***allowed*** in part.
- ii. The judgment and award dated 20.09.2024 passed in MVC No.7867/2019 on the file of the Chief Judge, Court of Small Causes & Member, Principal M.A.C.T., Bangalore (S.C.C.H-1), is modified.
- iii. The appellant-petitioner is entitled to a sum of **Rs.4,97,525/-** along with interest at 6% p.a., from the date of petition till the date of realization, instead of Rs.3,61,725/- granted by the Tribunal.
- iv. Respondent No.2/Insurance Company has already deposited the award amount before the Tribunal. Therefore, respondent No.2/Insurance Company is directed to deposit



the enhanced compensation of **Rs.1,35,800/-**
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.

Sd/-
(P SREE SUDHA)
JUDGE

AMM
List No.: 1 Sl No.: 6