



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.2949/2020 (MV-I)

BETWEEN:

MAHESH S/O RAMESH
AGED 5 YEARS, MINOR
REP. BY HIS NATURAL GUARDIAN
FATHER RAMESH S/O HANUMANTHAPPA
AGED 34 YEARS
MASON WORK
R/O HIREARAKERE VILLAGE
TQ. JAGALUR
NOW R/O YALEBETHUR VILLAGE
TQ. DIST. DAVANGERE 577001.

...APPELLANT

(BY SRI. R. SHASHIDHARA, ADV.,)

AND:

1. SIDDESH D.S. S/O SHIVAKUMAR H.B.
AGED 29 YEARS
RIDER OF MOTOR CYCEL
BEARING NO.KA-17/EP-1807
R/O CHIKKAAREKERE VILLAGE
CHADARAGOLLA POST, DAVANAGERE
TALUK AND DSITRICT 577001.
2. CHANNABASAPPA
S/O GURUSIDDAPPA
AGED 56 YEARS
OWNER OF MOTOR CYCLE
BEARING NO.KA-17/EP-1807





NC: 2026:KHC:16538
M.F.A. No.2949/2020

R/O CHIKKAAREKERE VILLAGE
CHADARAGOLLA POST
DAVANGERE TALUK AND
DISTRICT 577001.

3. THE DIVISIONAL MANAGER
NATIONAL INSURANCE CO. LTD,
NARADAMUNI PLAZA, DENTAL COLLEGE
OPPOSITE MCC B BLOCK
DAVANGERE 577001.

...RESPONDENTS

(BY SRI. RAVISH BENNI, ADV., FOR R3
V/O/DTD:16.02.2023 NOTICE TO R1 & R2 D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DATED 29.04.2019 PASSED IN MVC
NO.766/2018 ON THE FILE OF THE I ADDITIONAL SENIOR
CIVIL JUDGE AND V ADDITIONAL MACT, DAVANGERE, PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL JUDGMENT

This appeal is filed by the injured appellant
challenging the judgment and award dated 29.04.2019
passed in MVC.No.766/2018 by the I Additional Senior
Civil Judge and V Additional MACT, Davangere, (for short
'the Tribunal').



2. Though this appeal is listed for admission, with the consent of the learned counsel for the parties, it is taken up for final disposal.

3. Sri.R.Shashidhara, learned counsel appearing for the appellant submits that the Tribunal has committed a grave error in assessing the disability of the injured minor at 10% and in awarding a meager compensation of Rs.1,00,000/- under the head of loss of future earning due to disability, by applying the principles laid down by the Hon'ble Supreme Court in the case of ***Mallikarjun v. Divisional Manager, National Insurance Company Ltd. and Another¹***. It is submitted that in view of the recent decision of the Hon'ble Supreme Court, the injured appellant is entitled to compensation under the head of loss of future income due to disability by assessing the minimum wages of the injured. Accordingly, he seeks to

¹ 2013 ACJ 2445



reassess the same and enhance the compensation by allowing the appeal.

4. Per contra, Sri.Ravish Benni, learned counsel for respondent No.3 supports the impugned judgment and award of the Tribunal and submits that the appellant was aged about 4 years at the time of accident, hence there cannot be any compensation under the head of loss of future income due to disability. It is submitted that the appellant has neither undergone any surgery nor suffered any permanent disability. Taking these aspects into consideration, the Tribunal has awarded a total compensation of Rs.1,86,583/-, which is just and reasonable and does not call for any interference. Accordingly, he seeks to dismiss the appeal.

5. I have heard the arguments on both the sides and meticulously perused the material available on record including the Tribunal records.



6. The parties to the proceedings do not dispute that the appellant was aged about 4 years at the time of the accident, which occurred on 19.12.2017. As per the evidence available on record, the appellant sustained the following injuries and fracture:

"i) Abrasion of 3 x 3 cms over right zygomatic area.

ii) 3 abrasions each 1 x 1 cm over right side of cheek, right side of forehead, over supra orbital region.

iii) Abrasion 1 x 1 cm over right medial malleolus region.

iv) Swelling and tenderness present over right thigh region.

v) 3 abrasion of 3 x 2 cm each over occipital, infroccipital of right temporal region.

vi) Multiple abrasion each 1 x 1 cm over dorsum of fingers.

On X-ray fracture of 1/3rd of soft of right femur."

7. In order to prove the claim, the father of the minor examined himself as PW1 and also examined Dr.Nandakumar as PW2 and got marked Ex.P1 to Ex.P11. The respondent did not adduce any oral evidence; however, with the consent, got marked Ex.R1 to Ex.R3. The Tribunal applying the law laid down by the Hon'ble



Supreme Court in the case of **Mallikarjun** referred *supra* assessed disability at 10% and awarded compensation of Rs.1,00,000/- under the head of loss of future income due to disability. In total, the Tribunal awarded compensation of Rs.1,86,583/-.

8. The Hon'ble Supreme Court in the case of **Hitesh Nagjibhai Patel v. Bababhai Nagjibhai Rabari and Another²** in paragraph Nos.9 and 15 held as under:

"9. The aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this

² 2025 INSC 1070



HC-KAR

Court, in Kajal v. Jagdish Chand and Ors³ , and Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr⁴

15. For the purpose of emphasis, it is again clarified here that when a Tribunal or the High Court in appeal, is concerned with the case involving a child having suffered injury or having passed away, the calculation of loss of income necessarily has to be made on the matrix of minimum wages payable to a skilled worker in the respective State at the relevant point of time. It is our hope that this restatement helps avoiding such errors and thereby obviates the necessity of this Court's interference, applying well-established principles of law."

9. Keeping in mind the enunciation of law laid down in the aforesaid decision, I am of the considered view that this Court is required to assess the compensation by taking into account the notional income based on minimum wages of a minor, for the purpose of determining compensation under the head of loss of future income due to disability. The accident is of the year 2017, hence, the notional income of the injured is assessed at Rs.11,000/- per month, as per the notional income chart

³ (2020) 4 SCC 413

⁴ 2024 SCC Online SC 3692



prepared by KSLSA for unskilled labour. The Tribunal taking note of the injuries sustained and the evidence of PW2, has assessed the disability at 10%, which in my view is just and proper. The medical evidence available on record supports the said assessment. The Hon'ble Supreme Court in the aforesaid decision has applied a multiplier of 18, wherein the deceased was aged about 8 years. Accordingly, it would be appropriate to apply the multiplier of 18 to assess the compensation under the head of loss of future income due to disability. Having reassessed the income of the appellant/claimant, the appellant/claimant is entitled to compensation under the head of ***loss of future income due to disability*** as under:

$$11,000 \times 12 \times 18 \times 10\% = \textbf{Rs.2,37,600/-}$$

10. The Tribunal awarded a sum of Rs.9,583/- towards medical bills, which is unaltered. However, taking note of the oral and documentary evidence on record, I



am of the considered view that the compensation awarded by the Tribunal under other heads is required to be reassessed by appropriately enhancing the same. The appellant is entitled to the modified compensation as under:

HEADS	AMOUNT (in Rs.)
Pain & suffering	40,000
Loss of amenities	40,000
Medical Bills	9,583
Loss of income to the parents during laid-up period of the appellant. (Rs.11,000 X 3)	33,000
Loss of future income due to disability	2,37,600
Towards conveyance, attendant charges, food and nourished food	20,000
Total	3,80,183

Thus, the appellant-claimant shall be entitled to total compensation of **Rs.3,80,183/-** as against Rs.1,86,583/- awarded by the Tribunal.

11. In the result, this Court proceeds to pass the following:

ORDER

a) Appeal stands ***allowed in part.***



- b) The impugned judgment and award of the Tribunal is modified to an extent that the appellant-claimant would be entitled to total compensation of **Rs.3,80,183/-** as against Rs.1,86,583/- awarded by the Tribunal.
- c) The enhanced compensation amount shall carry interest at the rate of 6% per annum from the date of petition till the date of payment.
- d) The Insurance Company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of six weeks from the date of receipt of certified copy of this judgment.
- e) On such deposit, the Tribunal shall release the entire enhanced compensation amount in favour of the appellant.



- f) The Registry is directed to transmit the records to the Tribunal forthwith.
- g) Draw modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 SI No.: 16