



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.287/2018 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO.288/2018 (MV-I)

IN M.F.A. No.287/2018:

BETWEEN:

SMT. KALAVATHI
W/O SRI. ADINARAYANA
AGED ABOUT 41 YEARS
OCC:GARMENTS FACTORY WORK
R/O HALAHALLI, DB PURA TALUK
BENGALURU RURAL DISTRICT-561203.

...APPELLANT

(BY SRI. SURESH M. LATUR, ADV.,)

AND:

1. RAVI .N
S/O SRI. NAGAPPA
R/AT NO.3624, YALUVALLI ROAD
VIJAYAPURA, DEVANAHALLI TALUK
BENGALURU DISTRICT-562110.
2. SRI. SRINIVASA
S/O DODDAMUNIYAPPA
R/O ALLIPURA VILLAGE
GOWRIBIDANUR TALUK
CHIKKABALLAPURA DISTRICT-561210.





NC: 2026:KHC:17037
M.F.A. No.287/2018
C/W M.F.A. No.288/2018

3. THE REGIONAL MANAGER
THE UNITED INDIA INSURANCE CO.,
5TH & 6TH FLOOR, KRISHI BHAVAN
NRUPATHUNGA ROAD
HUDSON CIRCLE, BENGALURU-560001.

...RESPONDENTS

(BY SRI. SYED SALMAN, ADV., FOR R2
SRI. P.B. RAJU, ADV., FOR R3
NOTICE TO R1 D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DATED:18.08.2017 PASSED IN MVC
NO.69/2014 ON THE FILE OF THE 4TH ADDITIONAL DISTRICT
& SESSIONS JUDGE, MACT, MEMBER, DODDABALLAPURA,
BENGALURU RURAL DISTRICT, ALLOWING THE CLAIM
PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT
OF COMPENSATION.

IN M.F.A. NO.288/2018:

BETWEEN:

SRI. ADINARAYANA
S/O SRI NARASIMHAPPA
AGED 46 YEARS
OCC:WEAVER
R/O HALAHALLI, DB PURA TALUK
BENGALURU RURAL DISTRICT-561203.

...APPELLANT

(BY SRI. SURESH M. LATUR, ADV.,)

AND:

1. RAVI .N
S/O SRI. NAGAPPA
R/AT NO.3624, YALUVALLI ROAD
VIJAYAPURA, DEVANAHALLI TALUK
BENGALURU DISTRICT-562110.



NC: 2026:KHC:17037
M.F.A. No.287/2018
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2. SRI. SRINIVASA
S/O DODDAMUNIYAPPA
R/O ALLIPURA VILLAGE
GOWRIBIDANUR TALUK
CHIKKABALLAPURA DISTRICT-561210.

3. THE REGIONAL MANAGER
THE UNITED INDIA INSURANCE CO.,
5TH & 6TH FLOOR, KRISHI BHAVAN
NRUPATHUNGA ROAD
HUDSON CIRCLE, BENGALURU-560001.

...RESPONDENTS

(BY SRI. S.V. HEGDE MULKHAND, ADV., FOR R3
NOTICE TO R1 & R2 D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT, AGAINST
THE JUDGMENT AND AWARD DATED:18.08.2017 PASSED
IN MVC NO.70/2014 ON THE FILE OF THE 4TH ADDITIONAL
DISTRICT AND SESSIONS JUDGE, DODDABALLAPURA,
BENGALURU RURAL DISTRICT, ALLOWING THE CLAIM
PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

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

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

ORAL JUDGMENT

These appeals are filed challenging the common
judgment and award dated 18.08.2017 passed in
M.V.C.No.69/2014 and M.V.C.No.70/2014 by the IV
Additional District and Sessions Judge and Member, Motor



Accident Claims Tribunal, Doddaballapura (for short, 'the Tribunal').

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

3. Sri.Suresh M.Latur, learned counsel appearing for the claimant in M.V.C.No.69/2014 submits that the Tribunal has committed a gross error in assessing the income of the injured at Rs.5,000/- p.m. He seeks to re-assess the income notionally. It is submitted that the assessment of disability by Dr.S.A.Somashekar - PW-3 is at 33% to the lower limb and 7% to the whole body. It is further submitted that the award of compensation by the Tribunal on all the other heads is also meagre and seeks to enhance the compensation appropriately by allowing the appeal.



4. Insofar as M.V.C.No.70/2014 is concerned, he submits that the income of the claimant is assessed at Rs.5,000/- p.m. which is required to be re-assessed notionally and the disability of the injured claimant has to be re-assessed at 25% to the whole body as per the evidence of PW-3. It is submitted that the claimant sustained fracture of tibia and femur and hence, there is no reason for the Tribunal to reduce the disability to an extent of 8%. It is further submitted that the award of compensation by the Tribunal on all other heads is also required to be appropriately enhanced by considering the nature of treatment provided and the disability suffered by the claimant. Hence, he seeks to allow the appeal.

5. In support of his contentions, he placed reliance on the following decisions:

- (i) SURESH JATAV Vs. SUKHENDRA SINGH AND OTHERS¹**
- (ii) AABID KHAN Vs. DINESH AND OTHERS²**
- (iii) SURESH Vs. SENTHIL B & ANR.³**

¹ 2025 AAC 1286 (SC)

² 2024 ACJ 2142 (SC)

³ C.A. @ SLP (C) No.8074/25 dt. 05.05.25



6. *Per contra*, Sri.P.B.Raju, learned counsel appearing for the respondent No.3 in M.F.A.No.287/2018 and Sri.S.V.Hegde Mulkhand, learned counsel appearing for the respondent No.3 in M.F.A.No.288/2018 support the impugned judgment and award of the Tribunal and submit that the claimants in both the claim petitions failed to produce any evidence with regard to their income and hence, the Tribunal was fully justified in assessing the income of the claimants at Rs.5,000/- p.m. It is submitted that the Tribunal, taking note of the fractures suffered by claimants and taking note of the fact that PW-3 has assessed the disability on the higher side to benefit the claimants to get higher compensation, has re-assessed the disability. It is further submitted that the award of compensation by the Tribunal on all the heads in both the cases is just and proper and does not call for any interference.



7. I have heard the arguments put forth by the learned counsel appearing for the appellants, the learned counsel appearing for the Insurance Company in both the cases and meticulously perused the material on record.

8. The appellants-claimants as well as the Insurance Company are not disputing that both the claimants sustained grievous injuries in a road accident that occurred on 06.05.2014. The Insurance Company is liable to make good the compensation amount. In order to substantiate their claims, the claimants examined themselves as PW-1 and PW-2, got examined Dr.S.A.Somashekar as PW-3 and got marked Exs.P1 to P100. The Insurance Company examined Dr.Subhas as RW-1 and got marked Ex.R1. The Tribunal, considering the oral and documentary evidence has awarded the total compensation of Rs.1,10,000/- in M.V.C.No.69/2014 and Rs.1,58,000/- in M.V.C.No.70/2014 with interest at the rate of 6% p.a.



9. Insofar as M.V.C.No.69/2014 is concerned, the claimant was working in a private firm under a substantial sum and in order to prove the vocation and income, the claimant has produced the I.D. card as Ex.P10. Considering the said evidence, the Tribunal has assessed the income of the claimant at Rs.5,000/- p.m. In my considered view, based on the I.D. card, the assessment of income of the injured claimant may not be appropriate. Hence, her income is notionally assessed at Rs.8,500/- p.m. placing reliance on the notional income chart prepared by the Karnataka State Legal Services Authority (KSLSA). The evidence on record indicates that the claimant has sustained fracture of pattella and based on such fracture and injury, PW-3 has assessed the disability at 33% to the particular limb and considering the said evidence and other documentary evidence, I am of the view that it would be appropriate to re-assess the disability at 11% for the purpose of determination of the



compensation. On having re-assessed the disability, income and taking note of the nature of treatment provided and the follow-up treatment obtained by the claimant, the compensation is required to be re-assessed as under:

HEADS	AMOUNT (in Rs.)
Pain & suffering	40,000
Loss of amenities	40,000
Medical bills	15,825
Loss of future income due to disability (8500 x 12 x 15 x 11%)	1,68,300
Future medical expenses	15,000
Food, attendant charges and conveyance	15,000
Loss of income during laid up period (8,500 x 3 months)	25,500
Total	3,19,625

Thus, the appellant-claimant in M.V.C.No.69/2014 shall be entitled to a total compensation of **Rs.3,19,625/-** as against Rs.1,10,000/- awarded by the Tribunal.

10. In M.V.C.No.70/2014, in the absence of any proof of income, the income of the claimant is notionally



assessed at Rs.8,500/- p.m. placing reliance on the notional income chart prepared by the KSLSA. The claimant has examined PW-3 who has deposed before the Tribunal that the claimant has sustained fracture of fibia and left femur shaft and based on such fracture, PW-3 has assessed the disability at 49% to the particular limb and 25% to the whole body. The Tribunal, considering the said evidence has assessed the disability at 8% to the whole body. In my considered view, the Tribunal has committed a grave error. The Hon'ble Supreme Court, in the cases of **SURESH JATAV, AABID KHAN AND SURESH** referred *supra*, clearly held that unless there is any justifiable reason, the Tribunal should not tinker with the opinion of the expert. Keeping in mind the enunciation of law laid down by the Hon'ble Supreme Court referred *supra* and also taking note of the fact that the claimant has sustained two fractures, I am of the considered view that the assessment of disability by the doctor to the whole body at 25% is on higher side. Hence, it would be



appropriate to re-assess the same at 18%. Having re-assessed the income and the disability, the compensation under the other heads is also required to be re-assessed appropriately which is as under:

HEADS	AMOUNT (in Rs.)
Pain and suffering	40,000
Loss of amenities	40,000
Medical bills	47,675
Loss of future income due to disability (8500 x 12 x 14 x 18%)	2,57,040
Future medical expenses	10,000
Food, attendant charges and conveyance	15,000
Loss of income during laid up period (8500 x 3 months)	25,500
Total	4,35,215

Thus, the appellant-claimant in M.V.C.No.70/2014 shall be entitled to a total compensation of **Rs.4,35,215/-** as against Rs.1,58,000/- awarded by the Tribunal.

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



ORDER

- a) The appeals are ***allowed in part.***
- b) The impugned common judgment and award dated 18.08.2017 passed by the Tribunal in M.V.C.Nos.69/2014 and 70/2014 is modified to an extent that the claimant in M.V.C.No.69/2014 would be entitled to total compensation of **Rs.3,19,625/-** as against Rs.1,10,000/- awarded by the Tribunal and the claimant in M.V.C.No.70/2014 would be entitled to total compensation of **Rs.4,35,215/-** as against Rs.1,58,000/- awarded by the Tribunal.
- c) The enhanced compensation shall carry interest at the rate of 6% p.a. from the date of petition till realisation.
- d) The respondent-Insurance Company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within



NC: 2026:KHC:17037
M.F.A. No.287/2018
C/W M.F.A. No.288/2018

a period of six weeks from the date of receipt
of the certified copy of this judgment.

- e) The rest of the judgment and award of the
Tribunal with respect to apportionment, deposit
and release shall remain unaltered.
- f) Draw the modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

RV
List No.: 2 Sl No.: 4