



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 3197 OF 2024 (MV-

I)

BETWEEN:

1. SRI MUDALI MUTTU C
S/O CHINNAPPAN,
AGED ABOUT 47 YEARS,
R/AT NO.113,
ARASU COLONY EAST END MAIN ROAD
JAYANAGARA
BENGALURU-560 069.

...APPELLANT

(BY SRI. SHARADAMBA A.R.,ADVOCATE)

AND:

1. THE M.D.
BMTC,
SHANTHINAGARA
DOUBLE ROAD (K.H. ROAD)
BENGALURU-560 027.

...RESPONDENT

(BY SRI. NAGARAJA K.,ADVOCATE)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 04.1.2024 PASSED IN MVC NO. 4235/2020 ON THE FILE OF THE XXII ADDITIONAL SMALL CAUSES JUDGE AND ACMM, MEMBER - MACT, COURT OF SMALL CAUSES, BENGALURU (SCCH-24), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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





CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

ORAL JUDGMENT

Heard the arguments on both sides.

2. This appeal is filed against the judgment and award dated 04.01.2024 passed by the Court of Chief Judge, Court of Small Causes, Bengaluru (henceforth referred to as 'Tribunal') in MVC No.4235/2020.

3. Injured-claimant met with an accident on 15.11.2018 and filed claim petition claiming compensation of Rs.10,00,000/-. Tribunal after considering the entire evidence on record, has awarded compensation of Rs.4,60,000/- with interest at the rate of 6% per annum from date of petition till realization.

4. Aggrieved by the said judgment and award of the Tribunal, the appellant preferred this appeal and mainly contented that appellant/petitioner sustained grievous injuries as per Ex.P7-wound certificate and they also examined the doctor as PW.2, who assessed the



whole body disability at 22%. But the Tribunal has considered only 15% disability without any basis and he was working as Engineer in a private company earning Rs.20,000/-per month. But the Tribunal has taken Rs.12,500/- per month and PW.2 also deposed that the appellant require another surgery for removal of the implants and estimated approximate cost of it as Rs.1,00,000/-. But the Tribunal granted meager amount. Therefore, he requested for enhancement of the compensation.

5. Learned Counsel for the respondent/BMTC stated that already implants were removed, therefore, another surgery is not required for removal of the implants and he further stated that Tribunal rightly considered that disability has 15% and it needs no inference and the reasonable amounts were already granted under the other heads and it is to be confirmed.

6. Though it is stated that petitioner was earning Rs.20,000/- per month, he has not filed any income proof.



As accident occurred in the year 2018, his notional income is to be taken as Rs.12,500/- per month as per the chart prepared by Karnataka State Legal Services Authority. He was aged 42 years at the time of the accident and the multiplier is '14'.

7. The petitioner examined the Doctor as PW.2, who stated that the petitioner sustained following injuries:

"a) Fracture of right tibial condyle with displacement.
b) Fracture of fibular neck with other injuries."

8. Wound certificate and discharge summary reveal that the petitioner underwent surgery. PW.2 stated on examination, "wasting of the right thigh by 2 cm compared to the left thigh, wasting of the left leg by 1 cm, limited dorsiflexion with foot in equinous position with muscle power at 90-91 and loss of sensation over the dorsum of foot and lateral aspect of leg". The X-ray report indicates fracture mal-union of fibular neck-anterior



drownses test positive suggests Act test and instability in knee. The doctor assessed permanent physical disability at 66% x 1/3 i.e., 22% to the whole body. He also stated that the petitioner may require nerve correction with study with nerve repair and fusion of ankle surgery costing approximately Rs.1,00,000/-. Doctor also issued a disability certificate. As per Ex.P11 – discharge summary, the petitioner sustained a right lateral tibial condyle fracture (displaced). He underwent surgery on 15.11.2018, and the procedures performed are as follows:

- 1. ORIF with lateral proximal tibial CCS fixation (two screws);*
- 2. ORIF with lateral tibial locking plate under spinal anaesthesia (SA).*

The discharge summary further states that the patient withstood the procedure well. Post-operatively, he was treated with IV fluids, antibiotics, analgesics, and supportive care. Regular dressing and physiotherapy were administered. He was advised to report for review after two weeks for suture removal.



9. The learned counsel for the respondent contended that the petitioner sustained only simple injuries. It is further submitted that the doctor who assessed the disability was not the treated doctor and has assessed the disability at 66%, which is excessive. It is argued that this is not a case of amputation and as per the discharge summary, the petitioner was hospitalized only for 3 days. Therefore, the Tribunal has rightly considered the whole body disability at 15% and the same is to be confirmed. This Court finds it just and reasonable to take the whole body disability at 22%, being one-third of 66% assessed by the doctor. The petitioner was aged 42 years at the time of the accident and is entitled for 25% towards future prospects. Accordingly, his monthly income comes to Rs.12,500 + 25% (Rs.3,125) = Rs.15,625/- per month.

10. As the petitioner was aged 42 years, the multiplier is '14'. Therefore, the loss of future earning capacity comes to $\text{Rs.15,625} \times 12 \times 14 \times 22\% = \text{Rs.5,77,500/-}$. The petitioner was hospitalized for a



period of 3 days. Considering the nature of injuries sustained, this Court finds that the petitioner might not have attended his work at least for a period of 4 months. Hence, the compensation under the head of 'loss of income during laid up period' comes to Rs. Rs.50,000/- ($12,500 \times 4$). The Tribunal has awarded Rs.50,000/- towards pain and suffering, Rs.25,000/- towards loss of amenities, and Rs.30,000/- towards transportation, extra nourishment, and attendant charges.

11. Though the doctor assessed the future medical expenses at Rs.1,00,000/-, the Tribunal has awarded Rs.35,000/- under the head of future medical expenses. The said amount is found to be just and reasonable and is accordingly confirmed.

12. Thus in all, the petitioner is entitled for the following compensation:-



Particulars	Amount in Rs.
Pain and suffering	50,000/-
Loss of amenities	25,000/-
Transportation extra nourishment and attendant charges	30,000/-
Loss of income during laid up period (12,500 x 4)	50,000/-
Future medical expenses	35,000/-
Loss of future earning capacity	5,77,500
Total	7,67,500/-

13. The Tribunal has awarded the compensation of Rs.4,60,000/- but the petitioner is entitled to total compensation of Rs.7,67,500/-. Therefore, the petitioner is entitled to enhanced compensation of **Rs.3,07,500/-** (Rs.7,67,500 - Rs.4,60,000).

14. Accordingly, I proceed to pass the following:

ORDER

- i. The appeal is ***allowed in part.***
- ii. The judgment and award dated 04.01.2024 passed by the Court of Chief Judge, Court of small Causes, Bengaluru in MVC No.4235/2020, is modified.



- iii. The respondent/ BMTC has already deposited the awarded amount before the Tribunal. Therefore, respondent/ BMTC is directed to deposit the enhanced compensation of **Rs.3,07,500/-** along with the interest at the rate of 6% within one month from the date of this order.
- iv. On such deposit, the petitioner is permitted to withdraw the entire amount along with interest accrued on it.
- v. The BMTC is not liable to pay interest on future medical expenses of Rs.35,000/-.

Sd/-
(P SREE SUDHA)
JUDGE