



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO.6964 OF 2019(MV-I)

BETWEEN:

ANNAYYA
S/O LATE SADIYA,
AGED ABOUT 51 YEARS,
R/A MAHAMAYA ANGADIBETTU,
KORAAVADI, KUMBHASHI VILLAGE,
KUNDAPURA TALUK.

...APPELLANT

(BY SRI. NAGARAJA HEGDE., ADVOCATE)

AND:

1. KIRAN.K.BANGERA
S/O KUMAR.K.BANGERA,
AGED ABOUT 25 YEARS,
R/A CHIKANSAL ROAD,
KUNDAPURA TALUK.

2. THE RELIANCE GENERAL INSURANCE CO. LTD.,
RELIANCE CENTRE,
19 WALCHAND, HIRACHAND MARG,
BALLARD ESTATE, MUMBAI-400 001,
BY ITS AUTHORISED OFFICER.

...RESPONDENTS

(BY SRI. D.VIJAYAKUMAR., ADVOCATE FOR R2;
R1-SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 17/05/2019, PASSED IN MVC



NO.334/2018, ON THE FILE OF THE ADDITIONAL DISTRICT JUDGE AND ADDITIONAL MACT, UDUPI (SITTING AT KUNDAPURA), 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 MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

1. The present appeal seeks to challenge the Judgment and Award dated 17.05.2019 in MVC No.334/2018. passed by the Additional District Judge and Additional MACT, Udupi, Sitting at Kundapura (hereinafter referred to as the "Impugned Award"). By the Impugned Award, a sum of Rs.3,46,200/- was granted to the appellant/claimant along with interest at 6% p.a. from the date of petition till the payment.

2. Respondent No.1 being the owner of the offending vehicle, has remained unrepresented before this Court. Given the fact that the appeal is pending for more than seven years, it is apposite to hear and dispose of the appeal today.



3. The brief facts that are relevant are, on 29.01.2018 at about 8.30 A.M., the appellant/claimant was riding his motor cycle bearing registration No.KA-20 EH 8726 from Koteshwara towards Hunsemakki, and when he reached in front of Devadasa Prabhu Shop, Hunsemakki, at that time, a Tipper Lorry bearing registration No.KA.21.A.1289 stated to be driven in a rash and negligent manner, lost control of Lorry and came to the extreme right side of the road and hit the motor cycle of the appellant/claimant. Due to this accident, appellant/claimant fell down and sustained injuries. He was shifted to N.R.Acharya Hospital, Koteshwara, where he was treated as an in-patient from 29.01.2018 to 15.02.2018.

3.1. Appellant/claimant filed a claim petition before the learned Tribunal claiming compensation. The petition was resisted by respondent No.2/Insurance Company. The owner of the vehicle/respondent No.1 neither appeared before Tribunal nor filed his defence and was proceeded with *ex-parte* before the Tribunal.



4. Based on the pleadings between the parties, the following issues were framed by the learned Tribunal.

"1. Whether the petitioner proves that, he suffered injuries in RTA that occurred on 29.01.2018 at about 8.30 hours, in front of Devadasa Prabhu Shop, Hunsemakki, Hombadi-Mandadi village, Kundapura Taluk, due to rash and negligent driving by the driver of Tipper Lorry bearing Reg.No.KA-21-A-1289?"

2. Whether the petitioner is entitled for compensation? If so, what is the quantum and from whom?"

3. What order or award?"

5. The appellant/claimant examined himself as P.W.1 and also examined one Dr.Pradeepkumar Shetty, who treated the appellant/claimant, as P.W.2 and marked the documents as Ex.P1 to P14. The respondent No.2/Insurance Company neither examined any witness nor produced any documents.

5.1. The learned Tribunal after examining the evidence including the injuries of the appellant/claimant, came to the conclusion that the appellant/claimant would be entitled for Rs.60,000/- towards pain and sufferings as the



injuries are simple in nature and awarded medical expenses to the claimant as per his medical bills under Exs.P10 in the sum of Rs.33,997/-. The monthly income was assessed by the learned Tribunal at Rs.9,000/- with 5 months bed rest. Thus, a sum of Rs.45,000/- was awarded towards loss of earning during the laid up period to the appellant. An additional amount of Rs.1,200/- was awarded for loss of earning during treatment period. The compensation was also awarded for loss of earning capacity in view of the disability. The compensation as awarded by the learned Tribunal is reproduced below:

Sl.No.	Particulars	Amount (Rs.)
01	Injury, pain and sufferings	60,000-00
02	Medical expenses	33,997-00
03	Loss of bed rest	45,000-00
04	Loss of conveyance, nourishment and attendant charges	10,000-00
05	Loss of earning during treatment	1,200-00
06	Loss of earning capacity	1,96,020-00
	Total	3,46,217-00

6. The learned counsel for the appellant/claimant submits that he has only two grounds of challenge in the present



appeal. Firstly, he contends that notional income for the year 2018 was Rs.12,500/-. Thus, the loss of future earning capacity should have been calculated at the rate of Rs.12,500/- per month. In addition, it has been contended that as this is an injury case, no amount has been awarded towards loss of amenities.

7. Learned counsel for the respondent No.2/Insurance Company does not dispute the contention that for an accident in the year 2018, notional income is to be awarded at Rs.12,500/- per month.

8. The issue that arises before this Court is, whether the appellant/claimant was entitled to any additional amount from the Tribunal.

9. The appellant at the time of accident was 50 years of age. Thus, the multiplier to be taken for this purpose would be '13'. The notional income for the year 2018 was Rs.1n2,500/-. The disability as calculated by the learned Tribunal is 16.5% towards whole body. Thus, the



calculation of loss of future earning capacity would be Rs.3,21,750/- (Rs.12,500/-x12x13x16.5%). The amount awarded although reflects pain and sufferings and actual medical expenses, no amount has been awarded for loss of amenities. In terms of the judgment of the Supreme Court in ***Raj Kumar Vs. Ajay Kumar & Anr.¹***, this Court deems it apposite to award Rs.30,000/- towards loss of amenities. An amount of Rs.62,500/- (Rs.12,500/- x 5) is awarded for the loss of income during laid up period. Thus, the compensation is re-assessed as follows:

Sl.No.	Particulars	Amount (Rs.)
01	Loss of dependency (Rs.12,500/-x12x13x16.5%)	3,21,750-00
02	Loss of amenities	30,000-00
03	Injury, pain and sufferings	60,000-00
04	Medical expenses	33,997-00
05	Loss of income during treatment (Rs.12,500 x 5)	62,500-00
06	Loss of conveyance, nourishment and attendant charges	10,000-00
	Total	5,18,247-00
	Less: Awarded by Tribunal	3,46,200-00
	Enhanced compensation	1,72,047-00

¹ (2011) 1 SCC 343



10. Hence, the claimant is entitled to an enhanced compensation of **Rs.5,18,247/-** along with interest at the rate of 6% per annum from the date of petition till the date of realization.

11. Accordingly, the Court proceeds to pass the following directions:

ORDER

- (i) The appeal is ***allowed in part.***
- (ii) The Impugned Judgment and Award dated 17.05.2019 in MVC No.334/2018 passed by the learned Addl. District Judge and Addl. MACT, Udupi (Sitting at Kundapura), is modified to the extent that the claimant is entitled to enhanced compensation of **Rs.1,72,047/-** along with interest at the rate of 6% per annum from the date of petition till the date of realization, in addition to **Rs.3,46,200/-** that has been awarded by the Tribunal.



- (iii) The remaining portion of the Impugned Award of the Tribunal remains undisturbed.
- (iv) The Insurance Company shall deposit the enhanced compensation with interest at 6% p.a. within a period of eight weeks from the date of receipt of the judgment.
- (v) On such deposit of compensation, the same shall be released in favour of the appellant/claimant.
- (vi) The Registry is directed to draw the modified Award accordingly.
- (vii) The Registry is directed transmit a copy of this judgment to the concerned Tribunal, along with its records.
- (viii) No order as to costs.

Sd/-
(TARA VITASTA GANJU)
JUDGE

YN / List No.: 1 Sl No.: 13