



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

MISCELLANEOUS FIRST APPEAL NO. 4394 OF 2015 (MV-I)

C/W

MFA CROSS OBJECTION NO. 92 OF 2022 (MV-I)

IN MFA No. 4394/2015

BETWEEN:

M/S FANTASY BUILDERS
AND ENGINEERS PVT. LTD.,
SN PRIDE COMPLEX,
NO.5/6, I CROSS,
MADIWALA NEW EXTENSION,
BANGALORE-560 068
REPRESENTED BY ITS
MANAGING DIRECTOR,
MOHAMMED NAZEER AHMED

...APPELLANT

(BY SRI. VENKATARAMANA K.S., ADVOCATE)



AND:

1. HARSHA C.,
S/O.CHANDRAPPA,
AGED ABOUT 27 YEARS,
NO.52, "D" CROSS,
BYATARAYANAPURA NEW EXTN.,
BENGALURU-26.
2. TATA AIG GENERAL INSURANCE CO.LTD.
LEGAL OFFICE,
NO.69, 2ND FLOOR,
J.P. & JAMBUKESHWAR ARCADE,



NC: 2026:KHC:17706
MFA No. 4394 of 2015
C/W MFA.CROB No. 92 of 2022

MILLERS ROAD,
BANGALORE-560 052.

...RESPONDENTS

(BY SRI.MADHU K.T., ADVOCATE FOR
SRI.C.PUTTASWAMY, ADVOCATE FOR C/R1,
SRI.A.N.KRISHNAMURTHY, ADVOCATE FOR R2)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 10.02.2015 PASSED IN MVC
NO.4281/2011 ON THE FILE OF THE XIII ADDITIONAL SMALL
CAUSE JUDGE AND MEMBER, MACT, BANGALORE, AWARDED
COMPENSATION OF RS.7,30,000/- WITH INTEREST @ 8% P.A
FROM THE DATE OF PETITION TILL THE REALIZATION.

IN MFA.CROB NO. 92/2022

BETWEEN:

SRI. HARSHA C.,
S/O CHANDRAPPA
AGED ABOUT 34 YEARS
NO.52, 'D' CROSS ROAD
BYATARANAYAPURA
NEW EXTENSION
BANGALORE-560 026

...CROSS OBJECTOR

(BY SRI. PUTTA SWAMY C., ADVOCATE)

AND:

1. M/S FANTASY BUILDERS AND
ENGINEERS PVT. LTD.,
REPT. BY ITS MANAGING DIRECTOR
NO.8, ARCO TOWERS
LALBAGH ROAD
BANGALORE -27

NOW R/AT



NC: 2026:KHC:17706
MFA No. 4394 of 2015
C/W MFA.CROB No. 92 of 2022

NO.5/6, 1ST CROSS ROAD
MADIVALA NEW EXTENSION
BANGALORE -560 068
(REP. BY HIS COUNSEL)
3-11

2. TATA AIG INSURANCE CO. LTD.,
LEGAL OFFICE
NO.69, 2ND FLOOR
JP AND JAMBUKESHWRA ARCADE
MILLERS ROAD
BANGALORE -52
(REP. BY ITS MANAGER)

...RESPONDENTS

(BY SRI.K.S.VENKATARAMANA, ADVOCATE FOR R1
SRI.A.N.KRISHNAMURTHY, ADVOCATE FOR R2)

THIS MFA CROB. FILED U/O.41 RULE 22 R/W SEC.173(1)
OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED:
10.02.2015 PASSED IN MVC NO.4281/2011 ON THE FILE OF
THE XIII ADDITIONAL SMALL CAUSE JUDGE, MEMBER, MACT,
BENGALURU, (SCCH-15), PARTLY ALLOWING THE CLAIM
PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT
OF COMPENSATION.

THESE APPEAL AND MFA CROB., COMING ON FOR FINAL
HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS
UNDER:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI



ORAL JUDGMENT

Aggrieved by the award passed in MVC.No.4281/2011 dated 10.02.2015 passed by XIII Additional Small Cause Judge and Member, MACT, Bengaluru, the owner of the vehicle as well as the claimant are before this Court.

2. The owner's appeal is MFA.No.4394/2015 and the claimant has filed MFA.Crob.No.92/2022. The claim petition is filed seeking compensation for the injuries sustained by the claimant in the road traffic accident. It is a case of the claimant that on 04.11.2010 at about 12.00 p.m., he was proceeding as a pillion rider on the motorcycle from Mysore towards Bengaluru on the left side of B.M road near PWD circle, Ramanagar Town. At that time the rider of the motorcycle came in a high speed in a rash and negligent manner and dashed against the two wheeler, because of which both the riders fell down and sustained injuries. The Tribunal has fixed the liability on the owner of the vehicle as the driver of the offending vehicle is not having a valid driving license. The Tribunal had granted compensation as per the table given below:



SL. No.	Heads		Compensation Awarded	
1.	Pain and sufferings	:	Rs.	50,000/-
2.	Loss of income during laid up period, Diet, Nourishment and etc.	:	Rs.	50,000/-
3.	Attendant charges, Conveyance, other Incidental Charges and etc.	:	Rs.	50,000/-
4.	Medical Expenditure	:	Rs.	5,30,000/-
5.	Loss of amenities and Comfort	:	Rs.	50,000/-
	TOTAL	:	Rs.	7,30,000/-

3. Learned counsel appearing for the owner of the vehicle submits that in fact both the brothers were proceeding on the motorcycle. When the brother who is having the valid driving license was driving the vehicle, but unfortunately in all the police records it is mentioned as the other brother who is not having the driving license is riding the vehicle. As such, the Tribunal has fixed the liability on the owner of the vehicle. It is submitted that these aspects were not properly appreciated by the Tribunal. It is further submitted that the compensation that is awarded by the Tribunal is on the higher side and the compensation needs to be reduced.



4. Learned counsel appearing for the claimant submits that it is admitted that the company has already paid an amount of Rs.50,000/- under the humanitarian grounds, as such that amounts needs to be deducted.

5. Learned counsel appearing for the claimant's submits that the Tribunal has not granted a just and reasonable compensation. When he has sustained those many grievous injuries, the Tribunal has not granted a reasonable compensation and on all the counts the compensation awarded by the Tribunal needs to be enhanced. It is submitted that he has placed disability certificate but the Tribunal has failed to grant any amount under the head of loss of income due to disability. It is further submitted that when it comes to the liability of fixing on the owner of the vehicle, it is submitted that though the rider of the vehicle is not having a valid driving license. In the light of the law laid by the Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Swaran Singh and others***¹, still the insurance company is liable to pay the compensation and recover the same from the owner of the vehicle. It is further submitted that his employer

¹ (2004) 3 SCC 297



paying an amount of Rs.50,000/- to the petitioner would not exempt the owner of the vehicle from paying the amount and that amount cannot be deducted from the compensation.

6. Learned counsel appearing for the Insurance Company submits that the Tribunal has rightly fixed the liability on the owner of the vehicle and as there was no valid driving license to the driver of the vehicle and the insurance company is not liable to pay the compensation.

7. Having heard the learned counsels on either side, perused the entire material on record. First coming to the aspect of liability, the entire police records show that the rider of the vehicle is not having a valid driving license. According to the owner of the vehicle, the other brother who is having the license was driving the vehicle. The entire case revolves around the police records and the self-serving statement of the parties cannot be taken into consideration and above all, in this case they have already compromised in the matter. Wherein, the rider who is not having the driving license is the accused in the said FIR. In those circumstances this Court is not inclined to



interfere with the finding of the Tribunal with regard to the liability fixed on the owner of the vehicle.

8. Then coming to the contention of the learned counsel appearing for the claimant that even though there is no valid driving license, still the insurance company is liable to pay the amount and recover the same from the owner of the vehicle in the light of the law laid down by the Hon'ble Apex Court in ***Swaran Singh's case*** (referred supra). In that view of the matter the insurance company shall pay the compensation and recover the same from the owner of the vehicle. It is submitted that the employer of the claimant has paid an amount of Rs.50,000/-. Even if the amount is paid, the said amount cannot be deducted from the amount which the owner is liable to pay.

9. Then coming to the compensation, considering the head injury and the other injuries sustained by the claimant under the ***head of the pain and suffering*** this Court is granting an amount of **Rs.70,000/-**. As Tribunal has rightly granted an amount of **Rs.5,30,000/-** towards **medical expenses** this Court finds no grounds to interfere with the



same. Considering that the claimant was in hospital for 31 days, but the Tribunal had granted an amount of Rs.50,000/- which is on the higher side and the same he has been reduced. Hence, **towards incidental expenses** this Court is granting an amount of **Rs.38,000/-**. Coming to the **loss of income during the laid up period** the Tribunal has granted an amount of **Rs.50,000/-** and this Court finds no grounds to interfere with the same. Coming to the loss of future income and disability the claimant had not examined the doctor the Tribunal had rightly considered and likely not granted any amount. However, towards **loss of amenities** the Tribunal has granted an amount of **Rs.50,000/-** and this Court is not inclined to interfere with the same.

10. The claimant is therefore, entitled to the compensation under the following heads:

SL. No.	Heads	Compensation Awarded by Tribunal		Compensation Awarded by this Court
1.	Pain and sufferings	Rs.	50,000/-	70,000/-
2.	Loss of income during laid up period, Diet, Nourishment and etc.	Rs.	50,000/-	50,000/-
3.	Attendant charges, Conveyance, other Incidental Charges and etc.	Rs.	50,000/-	38,000/-



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4.	Medical Expenditure	Rs.	5,30,000/-	5,30,000/-
5.	Loss of amenities and Comfort	Rs.	50,000/-	50,000/-
	TOTAL	Rs.	7,30,000/-	7,38,000/-

- i. Accordingly, MFA.No.4394/2015 filed by the owner of the vehicle is **dismissed** and MFA.Crob.No.92/2022 by the claimant is **partly allowed** by enhancing the compensation from an amount of Rs.7,30,000/- to **Rs.7,38,000/-** holding that the insurance company shall pay the compensation amount and recover the same from the owner of the vehicle.
- ii. The enhanced amount shall carry interest at 6% per annum from the date of petition till the date of realization.
- iii. The amount in deposit shall be forthwith transferred to the Tribunal.
- iv. Respondent/Insurance Company is liable to pay the compensation amount and recover the same from the owner of the vehicle.



- v. Respondent/Insurance Company shall deposit the remaining amount within a period of eight weeks from the date of receipt of copy of the judgment. On such deposit, the claimant is entitled to withdraw the amount as per the award.
- vi. Registry is directed to return the Trial Court Records to the Tribunal, along with certified copy of the order passed by this Court forthwith without any delay.
- vii. No costs.
- viii. Pending miscellaneous petitions, if any, shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

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List No.: 1 Sl No.: 15