



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.4764/2020 (MV-I)

BETWEEN:

SRI. PERAPPA GOWDA
AGE 44 YEARS
S/O LATE SUBRAYA GOWDA
R/AT. CHIDGAL HOUSE
KUTHKUNJA VILLAGE, ADYATHOD POST
SULLIA TALUK, D.K. - 574232.

...APPELLANT

(BY SRI. PUNDIKAI ISHWARA BHAT, ADV.,)

AND:

1. SRI. ABDUL AZIZ
AGED 31 YEARS
S/O ARABI BEARY
R/AT ALANTHADKA HOUSE
PERUVAJE VILLAGE
SULLIA TALUK, D K - 574212.
2. THE BRANCH MANAGER
NATIONAL INSURANCE CO LTD
BRANCH OFFICE AT 2ND FLOOR
BHARATH BUILDING, P.M. RAO ROAD
HAMPANAKATTA, MANGALURU
D.K. - 575001.

...RESPONDENTS

(BY SRI. RAVISH BENNI, ADV., FOR R2
NOTICE TO R1 D/W)





THIS MFA IS FILED U/S 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 08.07.2019 PASSED IN MVC NO.532/2015 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, MACT, SULLIA, D.K. 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/claimant seeking enhancement of compensation being aggrieved by the judgment and award dated 08.08.2019 passed in MVC.No.532/2015 by the Senior Civil Judge & JMFC, and Member MACT, Sullia, D.K., (for short, 'Tribunal').

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

3. Sri.Pundikai Ishwara Bhat, learned counsel for the appellant-injured submits that the injured was working in the Hollow blocks factor and he was aged about 39 years at the time of accident. It is submitted that the



appellant met with an accident on 02.10.2014 and he was provided initial treatment at Girija Clinic in Puttur Taluk and thereafter at Justice K.S.Hegde Charitable Hospital at Mangalore. The appellant was in-patient for more than 30 days and suffered grievous injuries and fractures which can be noticed from Exs.P3, P7 & P8. It is further submitted that the Tribunal has not awarded any compensation under the head of loss of future income due to disability by incorrectly recording the reasons at paragraph No.21 of its judgment. It is also submitted that the award of compensation by the Tribunal under all other heads is on the lower side and seeks to enhance the same appropriately by considering the evidence on record.

4. Per contra, Sri.Ravish Benni, learned counsel for the respondent No.2-Insurance Company supports the impugned judgment and award of the Tribunal and submits that the Tribunal by considering the decision of the Hon'ble Supreme Court in the case of ***Raj Kumar vs.***



Ajay Kumar¹ assigned the reasons at paragraph No.21 for refusing to grant the compensation under the head of loss of future income due to disability. It is submitted that the award of compensation by the Tribunal under all heads is also appropriate and there is no scope for enhancement. Hence, he seeks to dismiss the appeal.

5. I have heard the arguments of the learned counsel appearing on both the sides and meticulously perused the material available on record.

6. It is not in dispute between the parties that the appellant met with a road accident on 02.10.2014 and the said accident was caused due to the actionable wrong on the part of the vehicle insured with the respondent No.2- Insurance Company. The records indicate that the appellant was provided immediate treatment at Girija Clinic in Puttur Taluk and thereafter he was shifted to Justice K.S.Hegde Charitable Hospital at Mangalore and he

¹ 2011 ACJ 1



was provided treatment. The appellant was admitted in the hospital on 02.10.2014 and discharged on 20.10.2014 and again readmitted on 09.12.2014 and discharged on 20.12.2014, in all, he was inpatient for 30 days. The appellant examined himself as PW1 and also examined other two witnesses as PWs2 and 3 and in order to prove the disability he has examined Dr.Ashwini Shetty as PW4 and got marked Exs.P1 to P93. The Tribunal assessed the income of the appellant-injured at Rs.9,000/- per month and awarded total compensation of Rs.1,83,906/- by declining to award any compensation under the head of loss of future income due to disability.

7. It is to be noticed that the evidence of PW4- Doctor, wound certificate at Ex.P3, discharge summary at Ex.P7 and disability certificate at Ex.P8 indicate that the appellant has sustained the following injuries:

"GA type I right mid shaft femur fracture open GA type IIIB right tibia condyle fracture (schatzker type VI) open GA type open GA type I right mid shaft



*femur fracture, open GA type IIIB right tibia
condyle fracture (schatzker type VI) open GA type
IIIB right tibia condyle fracture."*

8. Considering the aforesaid injuries and considering the oral testimony of PW4-Doctor, I am of the considered view that the interest of justice would be met if the disability of the appellant is assessed at 10% to the whole body for the purpose of determination of compensation.

9. The appellant has claimed that he was working in the hollow blocks factory and earning Rs.15,000/- per month and in order to prove the same, he has produced salary certificate and the employer has been examined, based on such evidence, the Tribunal has assessed the income at Rs.9,000/- per month, hence, the same does not require any modification, thus it is unaltered.

10. Having assessed the disability and the income of the appellant-injured, I am of the view that the



evidence on record clearly indicates that due to the accidental injury and fracture suffered by the appellant, he is entitled to compensation under the head of loss of future income due to disability and the same is calculated as under:

$$\text{Rs.9,000} \times 12 \times 15 \times 10\% = \textbf{Rs.1,62,000/-}.$$

11. Taking note of the injuries suffered and the disability referred supra, I am of the considered view that the compensation under other heads is also required to be enhanced appropriately. Hence, the appellant would be entitled to compensation of **Rs.40,000/-** towards pain & suffering; **Rs.25,000/-** towards food, nourishment, conveyance and attendant charges; **Rs.40,000/-** towards loss of amenities and happiness. The appellant would be entitled to **Rs.27,000/-** (Rs.9,000 X 3) towards the loss of income during laid-up period. The compensation awarded by the Tribunal towards medical expenses and future medical expenses is unaltered. Thus, the appellant would be entitled to the modified compensation as under:



HEADS	AMOUNT (in Rs.)
Loss of future income due to disability	1,62,000
Pain & suffering	40,000
Food, nourishment, conveyance and attendant charges	25,000
Loss of amenities and happiness	40,000
Loss of income during laid up period	27,000
Medical expenses	68,906
Future medical expenses	20,000
Total	3,82,906

Thus, the appellant-claimant shall be entitled to a total compensation of **Rs.3,82,906/-** as against Rs.1,83,906/- awarded by the Tribunal.

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

ORDER

- a) Appeal is ***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 a total compensation of **Rs.3,82,906/-** as against Rs.1,83,906/- 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) The entire compensation amount shall be released in favour of the appellant-claimant.
- f) Registry shall transmit the records to the Tribunal forthwith.
- g) Draw modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE