



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. 755 OF 2018 (MV-I)

BETWEEN:

MANJUNATHA K
S/O R KANNAN
AGED ABOUT 37 YEARS
AUTO MECHANIC
C/O SRI KRISHNAMURTHY
S/O LATE M. SAMPATH
SRI SHABARISH PROVISION &
GENERAL STORES
GONDHICHATTNAHALLI
SHIVAMOGGA POST
SHIVAMOGGA TALUK &
DISTRICT - 577 301.

...APPELLANT

(BY SRI ANIL SHEKAR K.S, ADV., FOR
SMT. MANJUAL N.C., ADV.)

AND:

1. K. RAVI
S/O LATE KANNA
AGED ABOUT 47 YEARS
R/O. 1ST CROSS, NMC RIGHT SIDE
HOSAMANE, BHADRAVATHI - 577 301.
2. RAMESH K
S/O KUPPUSWAMY
R/O 2ND DIVISION
BOMMANAKATTE
HIRIYUR POST
BHADRAVATHI - 577 302.
3. NATIONAL INSURANCE CO. LTD
B.H.ROAD, SHIVAMOGGA - 577 201
REP BY MANAGER.





...RESPONDENTS

(BY SMT. NIRMALA, ADV., FOR R-3;
V/O DTD:22.11.2023, NOTICE TO R-2 IS
DEEMED TO HAVE BEEN SERVED;
R-1 SERVED & UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 05.01.2017 PASSED IN MVC
NO.160/2013 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL
JUDGE AND AMACT-8, SHIVAMOGGA. PARTLY ALLOWING THE CLAIM
PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

THIS APPEAL, COMING ON FOR ORDERS, 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 05.01.2017 passed in MVC
No.160/2013 by the Court of II Addl. Senior Civil Judge &
Addl. MACT-8, Shivamogga (for short, 'Tribunal').

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



3. Sri Anil Shekar, learned counsel for the appellant submits that the Tribunal has committed grave error in assessing the income of the injured and the disability sustained by him. It is submitted that the Tribunal has not awarded any compensation under the head of loss of amenities, the compensation awarded under the head of loss of income during laidup period is also meager, and no compensation is awarded towards transportation of the injured from the place of accident to different hospitals though he has produced bills to that effect. Hence, he seeks to re-assess the compensation by considering the evidence on record.

4. *Per contra*, Smt. Nirmala, learned counsel for respondent No.3 supports the impugned judgment and award of the Tribunal and submits that the appellant has failed to produce the evidence before the Tribunal with regard to income. It is submitted that the Tribunal has considered 1/3rd of the assessed disability of the doctor



which is in consonance with the evidence on record. It is further submitted that award of compensation by the Tribunal on all other heads is just and proper, and there is no scope to enhance the same. Hence, she seeks to dismiss the appeal.

5. I have heard the arguments of the learned counsel for the appellant, the learned counsel for respondent no.3 and meticulously perused the material available on record

6. The only point that would arise for consideration in this appeal is:

"Whether the impugned judgment and award passed by the Tribunal calls for any interference?"

7. The parties to the proceedings do not dispute that in a road accident dated 28.09.2012, the appellant sustained grievous injuries. It is also not in dispute between the parties that the accident is caused by the



actionable negligence on the part of the offending motor cycle which was insured with respondent no.3 and they are liable to pay compensation.

8. The records indicate that the appellant was provided treatment at Nanjappa Hospital, Shivamogga, and thereafter, at KMC Hospital, Manipal. The injured claimant had examined himself as PW-1 and got examined CW-1 - Dr. Monappa Naik, and got marked the documents at Exs.P-1 to P-131. The respondent got marked Exs.R-1 & R-2. CW-1, during the course of his evidence got marked Exs.C-1 to C-3. The Tribunal, after assessing the evidence, awarded compensation of Rs.9,56,000/- along with interest at 9% per annum.

9. The material on record would indicate that the appellant had sustained open fracture of right distal femur, open fracture of right proximal tibia, crush injury of right foot with lisfranc's fracture. CW-1 assessed the disability at 64% to his right lower limb, and considering the said



evidence, the Tribunal assessed the disability at 21%. The records further indicates that the appellant was inpatient in the hospital for 190 days, undergone surgery for the aforesaid fractures and post surgery he was treated as outpatient in the said hospital. Taking note of the aforesaid fractures, surgery undergone and the treatment provided, I am of the considered opinion that disability to the aforesaid injuries are required to be assessed at 23% for the purpose of determination of compensation.

10. The income of the appellant-injured was assessed at Rs.6,000/- though it is claimed that the appellant was working as a mechanic. However, no proof of income was placed before the Tribunal. Hence, the income is notionally re-assessed at Rs.7,000/- per month placing reliance on the notional income chart prepared by KSLSA. Having re-assessed the income, disability and taking note of the fact that he was inpatient for 190 days initially, was provided treatment at Nanjappa Hospital, Shivamogga, and thereafter at KMC Hospital, Manipal, in order to claim the



ambulance charges, the appellant has produced Exs.P-43 & P-54. The said bills indicate that the appellant has incurred more than Rs.76,000/- towards ambulance charges which has not been considered by the Tribunal. The Tribunal has not assessed any compensation under the head of loss of amenities to which the injured is entitled. Having re-assessed the income and disability, the compensation awarded by the Tribunal is required to be reassessed and the same is reassessed as under:

HEADS	AMOUNT (in Rs.)
Pain & suffering	75,000/-
Medical expenses	5,95,781/-
Loss of income during laid up period	49,000/-
Loss food, attendant and conveyance charges of the attendant	25,000/-
Ambulance charges	76,000/-
Loss of future income (7,000 x 12 x 16 x 23%)	3,09,120/-
Loss of amenities	60,000/-
Total	11,89,901/-



Thus, the appellant-claimant shall be entitled to a total compensation of **Rs.11,89,901/-** as against Rs.9,56,000/- awarded by the Tribunal.

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

ORDER

- a) The appeal is ***allowed in part.***
- b) The impugned judgment and award dated 05.01.2017 passed by the Tribunal in M.V.C.No.160/2013 is modified to an extent that the appellant-claimant would be entitled to total compensation of **Rs.11,89,901/-** as against Rs.9,56,000/- 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 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) Registry shall transmit the records to the Tribunal forthwith.
- g) Draw modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

KK
List No.: 1 Sl No.: 1