



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO. 5279 OF 2020 (MV-I)

BETWEEN:

SRI. SAMPANGI RAMU S
S/O LATE SIDDAPPA M
AGED ABOUT 61 YEARS
R/AT NO.288, GARVEBHAVI PALYA
HOUSUR MAIN ROAD, MADIWALA POST
BENGALURU - 560 068.

...APPELLANT

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

AND:

1. M/S. S.V. TRAVELS
BHOOMOIKA NILAYA
NO.9, 1ST MAIN ROAD,
2ND CROSS,
HOSAPALYA MAIN ROAD,
BOMMANAHALLI,
BENGALURU - 560 068.
2. THE BRANCH MANAGER
UNITED INDIA INSURANCE CO. LTD.,
5TH AND 6TH FLOOR,
KRUSHI BHAVAN BUILDING
HUDSON CIRCLE, BENGALURU - 560 001.

...RESPONDENTS

(BY SRI. RAKESH M.T., ADVOCATE FOR
SRI. M.V. CHANDRASHEKARA REDDY, ADVOCATE FOR R2;
NOTICE TO R1 IS DISPENSED WITH V/O
DATED 28.11.2022)



THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 25.02.2020 PASSED IN MVC NO.2880/2017 ON THE FILE OF THE VII ADDITIONAL SCJ AND ACMM, MEMBER, MACT-3, BENGALURU 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 has been filed under Section 173(1) of the Motor Vehicles Act, 1988, seeking to challenge Judgment and Award dated 25.02.2020 in MVC No.2880/2017 passed by the VII Additional Senior Civil Judge and ACMM, Member, MACT-3, Bengaluru (hereinafter referred as 'Impugned Award'). By the Impugned Award the learned trial Court has awarded Rs.4,32,507/- along with interest at the rate of 9% per annum.

2. The brief facts are that the appellant/claimant on 25.04.2017 around 06.20 a.m. and was crossing the road



near Garvebhavipalya bus stop and at that time driver of Tata Indica Car bearing registration No.KA-01-AE-7104, driving in a rash and negligent manner hit the appellant/claimant at the edge of the road. The appellant/claimant as a result of the accident sustained injuries and was hospitalized at St. John's Hospital, Bangalore. The appellant/claimant states that he took treatment as an inpatient for 52 days and also underwent several surgeries.

3. The appellant/claimant filed a claim before the Tribunal. Respondent No. 1 owner of the vehicle appeared. The case was contested by the owner of the offending vehicle and by the insurance company.

4. Based on the pleadings between the parties, the following issues were framed:

ISSUES

1. Whether the petitioner proves that he has sustained grievous injuries in the accident occurred on 25-04-2017 at about 6.20 a.m., on Hosur Main Road, Service Road, near Garvebhavipalya bus Stop, Bengaluru, due to the rash and negligent driving of the driver of Tata Indica Car bearing reg.No.KA-01-AE-7104 as alleged in the petition?



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

3. *What Order or Award?"*

5. The learned Tribunal examined the evidence before it and found that PW-1 was negligent since it was found that he was crossing the road and there was no zebra crossing at that place. Thus, the learned Tribunal deducted 25% as contributory negligence. The learned Tribunal also found that the claimant was unable to produce any documents showing his income and thus considered his income at Rs.8,000/- per month. The learned Tribunal also found that the records show the age of the petitioner as 60 years and thus calculated the loss of future income in the following terms:

$$\text{"Rs.8,000} \times 12 \times 9 \times 15/100 = \text{Rs.1,29,600/-"}\text{"}$$

6. The learned Tribunal after examining the evidence between the parties gave a finding and awarded Rs.4,32,507/- in favour of the appellant/claimant in terms of the following:



Sl. No.	Particulars	Amount in Rs.
1.	Loss of future income	1,29,600.00
2.	Pain and Agony	20,000.00
3.	Medical expenses	2,16,907.00
4.	Loss of amenities and nutritious food	20,000.00
5.	Attendance charges and conveyance	15,000.00
6.	Loss of income during laid up period	16,000.00
7.	Future medical expenses	15,000.00
	Total	4,32,507.00

7. The learned counsel for the appellant/claimant submits that his challenge is on four grounds. Firstly, he submits that the notional income in the year 2017 was Rs.11,000/- per month and at least that amount should have been awarded by the learned Tribunal. Secondly, he contends that the award on pain and agony is less since he was hospitalised for 52 days. Thirdly, it is contended that the loss of income during laid-up period also needs to be revised in terms of the notional income. Lastly, it is contended that the deduction on account of contributory negligence is without any basis. He submits that, the claimant was crossing the road. However, there was no



zebra crossing and thus he cannot be held to have been negligent.

8. Learned counsel for the respondent on the other hand fairly submits that the notional income should have been taken at Rs.11,000/- and that the award for future income should be recalculated as would the award for loss of income during laid-up.

8.1. On the ground of contributory negligence, learned counsel for the respondent contends that since there was no zebra crossing from where the appellant was crossing the road, he is liable for contributory negligence. Reliance in this behalf is placed on the cross-examination of the appellant as PW-1 before the Tribunal. Learned counsel for the respondent further seeks to rely upon the findings of the Tribunal in this behalf to prove that the claimant was also partly negligent.

9. The questions that arise for consideration before this Court are:



1. *Whether the compensation as awarded by the learned Tribunal is in accordance with law?*

2. *Whether the claimant was liable for contributory negligence as was recorded by the learned Tribunal?*

10. It is not disputed by the parties that the notional income for the year 2017 was Rs.11,000/-. Thus, the calculation for loss of future income should have been taken at Rs.11,000/- per month. Since the claimant was 60 years old, the multiplier would be of '9'. The disability of the claimant was assessed at 15% to the whole body and this amount has been awarded. Accordingly, the loss of future income would be recalculated as follows:

$$[Rs.11,000/- \times 12 \times 9 \times 15 \times 100] = Rs.1,78,200/-]$$

10.1 Since the claimant was hospitalized for 52 days, the award for pain and suffering is enhanced to Rs.40,000/-. The medical expenses have already been awarded by the learned Tribunal in Rs.2,16,907/-. Loss of amenities is enhanced to Rs.30,000/-. Since the hospitalization was for 52 days the attendant charges and conveyance are also enhanced to Rs.30,000/-. The loss of income during the laid-up period is calculated as Rs.11,000 x 4 =



Rs.44,000/-. Future medical expenses Rs.10,000/-.

Accordingly, the compensation is calculated in the following manner:

Sl. No.	Particulars	Amount in Rs.
1.	Loss of future income	1,78,200.00
2.	Pain and Agony	40,000.00
3.	Medical expenses	2,16,907.00
4.	Loss of amenities and nutritious food	30,000.00
5.	Attendance charges and conveyance	30,000.00
6.	Loss of income during laid up period (Rs.11,000 x 4)	44,000.00
7.	Future medical expenses	10,000.00
	Total	5,49,107.00

11. On the aspect of negligence, the learned trial Court after examining the evidence of the parties found that the appellant has admitted that he was on the service road when the car hit him. He further admits that there was no zebra crossing there. However, the appellant has also stated that there was no bus present at the bus stop when he was crossing the road. The appellant in his examination in chief admits that he had alighted from the bus and crossed the road. Thus, the appellant would have crossed the road without examining as to whether any vehicle was



coming from the opposite direction. The relevant extract of the Impugned Award setting this out is reproduced below:

"12. In the cross-examination of P.W.1 it is suggested that he was negligent who crossed the road without watching the vehicle movements, but it is denied as false. But **he admits that he was crossing the road on Bengaluru - Hosur Road and there was no zebra line.** Except this suggestion there is nothing in the evidence of P.W.1 to appreciate on the point of negligence.

xxx

xxx

xxx

14. On the basis of this evidence, the counsel for petitioner contended that Charge sheet is filed against car driver and he has admitted the guilty before the Court and as such negligence has to be attributed against the Car driver. **On the other hand both counsels for respondent Nos.1 and 2 argued stating that the pedestrian tried to cross the road i.e., main road where there is no pedestrian cross or zebra line and it amounts to contributory negligence.** It is noticed that the Charge sheet in this case is filed against the Car driver for the offences punishable U/Sec 279 and 338 of IPC. It is settled law that the finding of criminal court is not binding on the tribunal and tribunal has to assess the evidence independently. **P.W.1 himself admitted that he was crossing the main, road which is contrary to his pleading i.e., in the petition he has stated that he was on the service road and Car hit him at the edge of service road. P.W.1. further admits that there was no zebra cross.** So, basically the petitioner being pedestrian has to cross the road where it is permitted. The road being highway Hosur main road, it is not permissible to cross as it is a busy road and vehicle movements will be more. The spot Sketch produced at Ex.P.4 shows the place of accident is service road and even in that place there is no pedestrian cross. **The fact shows that petitioner after getting down from the bus suddenly tried to cross the road and one cannot expect such thing on the road which is meant for vehicle movements and not for human movements."**

[Emphasis Supplied]



12. This Court has examined the evidence of the parties including the spot mahazar - Ex.P.3 and the evidence of PW-1 and its cross-examination and has also found that no evidence was led by the eye witness. PW-1 in his examination-in-chief states that he was crossing the road on Bangalore-Hosur main road and that there was no zebra crossing at that spot. He also admits to have been crossing the road where there was no zebra line and that after alighting from a bus he was moving ahead when the car hit him. The relevant extract of the cross-examination is set out below:

*"It is false to suggest that I am aged more than 65 years. I have not produced document to show I was aged 60 years at the time of accident. I can produce it. On the date of accident. **I was pedestrian crossing the road on Bengaluru-Hosuru main road. It is true that there was no zebra line at the spot. It is true that I was crossing the road where there was no zebra line, witness volunteers that soon after alighting the bus he was moving ahead wherein car came and dashed against him.**"*

[Emphasis Supplied]

13. Learned counsel for the appellant/claimant submits that the contributory negligence should have been restricted to 10% and not at 25% as awarded. Usually,



most roads do not have zebra crossings to facilitate the pedestrians. However, this does not take away the fact that pedestrians ought to be diligent. Undisputably, the appellant/claimant alighted from a bus and was crossing the road when the accident occurred. Thus, some negligence ought to be attributed to the appellant/claimant. Accordingly, the contributory negligence is reduced to 20%.

14. Hence, the appellant/claimant is entitled to enhanced compensation of **Rs.1,16,600/-** along with interest at the rate of 6% per annum from the date of petition till the date of realization.

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

ORDER

- (i) The appeal is ***partly allowed.***
- (ii) The Impugned Judgment and Award dated 25.02.2020 in MVC No.2880/2017 passed by the VII Additional Senior Civil Judge and ACMM,



Member, MACT-3, Bengaluru is modified to the extent that the appellant is entitled to enhanced compensation of **Rs.1,16,600/-** along with interest at the rate of 6% per annum from the date of petition till the date of realization, in addition to **Rs.4,32,507/-** that has been awarded by the Tribunal.

- (iii) The liability under Impugned Award is reduced to 20% and the respondent/Insurance Company shall make payment of the compensation amount accordingly.
- (iv) The remaining portion of the Impugned Judgment and Award of the Tribunal remains undisturbed.
- (v) The Insurance Company shall deposit the enhanced compensation with interest at 6% per annum within a period of eight weeks from the date of receipt of the judgment.



- (vi) The amount deposited by the Insurance Company before this Court, if any, shall be transmitted to the Tribunal within a week.
- (vii) The Registry is directed to draw the modified Award accordingly.
- (viii) The Registry is directed to transmit a copy of this judgment to the concerned Tribunal, along with its records.
- (ix) No order as to costs.

Sd/-
(TARA VITASTA GANJU)
JUDGE

BVK/PSJ/YN
List No.: 1 Sl No.: 17