



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

MISCELLANEOUS FIRST APPEAL No. 6373 OF 2024 (MV-I)

BETWEEN:

1. TOTAN SAMANTA,
S/O RANAJIT KUMAR SAMANTA,
AGED ABOUT 39 YEARS,
REPTD. BY HIS WIFE,
SMT. RINKU KOLEY @ RINKU SAMANTHA,
W/O.TOTAN SAMANTA,
D/O.RAGHUNATH KOLEY,
AGED ABOUT 30 YEARS,
AS NEXT FRIEND,

RESIDING AT
KITHAGANAHALLI,
RMK REDDY BUILDING,
MUNISWAMY REDDY LAYOUT,
OPP. GOVERNMENT SCHOOL,
ANEKAL TALUK, BANGALORE.

NATIVE ADDRESS:
BARUIPARA, HOOGHLY,
WEST BENGAL.

...APPELLANT

(BY SRI SREENIVASAIAH A., ADVOCATE)





AND:

1. DHANUSH R.,
S/O.RAMACHANDRA P.,
No.27, NEAR ANJANEYA TEMPLE,
NERALUR, ANEKAL,
BENGALURU 562 107.
2. THE MANAGER,
IFFCO-TOKIO GENERAL INSURANCE CO. LTD.,
CSC-141, SRI SHANTHI TOWERS,
5TH FLOOR, 3RD MAIN, 141,
EAST OF NGEF LAYOUT,
KASTURI NAGAR,
BENGALURU 560 048.

...RESPONDENTS

(BY SRI E.I. SANMATHI, ADVOCATE FOR R2;
NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 07.03.2024 PASSED IN MVC No.1531/2021 ON THE FILE OF THE XXI ADDITIONAL SMALL CAUSES JUDGE AND ACMM, MEMBER MACT, BENGALURU (SCCH-230), 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 S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE K.V. ARAVIND)

Heard Sri A. Sreenivasaiah, learned counsel appearing for the appellant-petitioner/claimant, and Sri E.I. Sanmathi, learned counsel appearing for respondent No.2-Insurer.

2. This appeal is filed by the petitioner-claimant seeking enhancement of compensation, challenging the judgment and award dated 07.03.2024 passed in MVC No.1531/2021 by the XXI Additional Small Causes Judge and MACT, Bangalore (SCCH-23) [for short, 'the Tribunal'].

3. The petitioner filed a claim petition seeking compensation for the injuries sustained in an accident that occurred on 26.01.2021, involving a motorcycle bearing Reg.No.KA-51-HP-1071. It is pleaded that while the petitioner was standing by the side of the road, the rider of the said motorcycle dashed against him due to rash and negligent riding. It is further pleaded that the petitioner sustained grievous injuries and was initially treated as an inpatient at Sparsh Hospital. Thereafter, for better treatment, he was shifted to Mazumdar Shaw Medical Centre,



Bengaluru, where he was treated in the ICU. It is also stated that the petitioner has undergone multiple surgeries.

3.1 It is further stated that the petitioner was working as a Senior Financial Executive at Narayana Hrudayalaya Ltd., Bommasandra, earning a salary of Rs.40,000/- per month, and that as a result of the severe injuries sustained in the accident, he is unable to work. It is further averred that the petitioner is presently in a vegetative state, has suffered physical and mental disabilities, and has incurred significant medical expenses.

3.2 Respondent No.1 remained absent despite service of notice and was placed *ex parte* before the Tribunal.

3.3 Respondent No.2-Insurer appeared and filed its written statement. While admitting the insurance policy, it denied the averments made in the claim petition. The insurer further denied the occurrence of the accident, as well as the mode and manner in which it allegedly took place, and also disputed the involvement of the insured vehicle. It was alleged that the accident occurred due to the negligence of the petitioner. It was



also contended that the rider of the motorcycle did not possess a valid and effective driving license as on the date of the accident.

3.4 In support of the claim, the Neuro Surgeon was examined as PW.1. The wife of the petitioner was examined as PW.2. The employer of the petitioner was examined as PW.3. The representative of the hospital was examined as PW.4. The Manager, Finance Department, Narayana Hrudayalaya Hospital, was examined as PW.5. The Orthopedic Surgeon at Sparsh Hospital was examined as PW.6. The Deputy Manager, Billing Department, Narayana Hrudayalaya Hospital, was examined as PW.7. PW.8 is also an employee of Narayana Hrudayalaya Hospital. The petitioner, in support of his case, marked Exs.P.1 to P.34. The respondent did not examine any witness nor mark any documents.

3.5 The Tribunal, upon consideration of the evidence placed on record, held that the accident occurred due to the negligence of the rider of the motorcycle. The Tribunal further held that the petitioner was aged 37 years. Based on the evidence on record, the monthly income of the petitioner was assessed at



Rs.28,200/- The Tribunal also held that the petitioner was treated as an inpatient for a period of 180 days. Considering the medical evidence on record, the Tribunal assessed the functional disability at 95% and awarded a sum of Rs.1,00,000/- towards pain and suffering, Rs.48,54,400/- towards medical expenses based on the medical bills, Rs.75,000/- towards diet and food charges, and Rs.75,000/- towards nourishment and conveyance charges.

4. Sri A. Sreenivasaiah, learned counsel for the appellant-petitioner submits that the Tribunal has committed an error in not considering the monthly salary at Rs.31,300/-, as reflected in Ex.P.32. It is further submitted that the compensation awarded under the head 'pain and suffering' is on the lower side. Learned counsel further contends that the Tribunal has erred in not awarding any compensation under the head 'loss of amenities'. It is also submitted that the compensation awarded towards 'loss of income during the laid-up period' is on the lower side, inasmuch as the petitioner has been bedridden from the date of the accident till date.



4.1 It is submitted that the compensation awarded under the heads attendant charges, diet and food charges, nourishment, and conveyance is on the lower side. It is further submitted that the compensation awarded towards 'medical expenses' is also on the lower side.

5. *Per contra*, Sri E.I. Sanmathi, learned counsel appearing for respondent No.2, submits that the compensation awarded under all heads is based on the evidence on record. Learned counsel further submits that there is no scope for further enhancement of compensation. Hence, it is contended that the compensation determined by the Tribunal is just and reasonable, and no interference is warranted.

6. Having considered the submissions made by the learned counsel for the parties and upon perusal of the record, we are inclined to interfere with the order of the Tribunal and re-compute the compensation awarded.

6.1 Firstly, the Tribunal has awarded a sum of Rs.1,00,000/- towards 'pain and suffering'. The evidence on record discloses that the petitioner was treated as an inpatient in the ICU for a



period of 180 days. During the course of treatment, he has undergone multiple surgeries. The evidence on record further indicates that the petitioner is not in a position to carry out any day-to-day activities. The medical evidence also shows that the petitioner has sustained fracture injuries. When the petitioner has undergone treatment as an inpatient for 180 days, he would have suffered pain not only during the period of hospitalization but also during the post-discharge period while recuperating from the treatment. In that view of the matter, the petitioner would be entitled to an additional compensation of Rs.50,000/- towards 'pain and suffering'.

6.2 The compensation awarded towards 'medical expenses' is based on the bills produced and duly proved. Hence, no interference is warranted. Considering the period of treatment undergone by the petitioner, the compensation awarded at Rs.75,000/- towards 'diet and food charges' and a further sum of Rs.75,000/- towards 'nourishment and conveyance charges' is reasonable.

6.3 The Tribunal is justified in assessing the disability at 95% on the basis of the medical evidence on record, including the



evidence of the doctors. Considering the period of treatment as an inpatient and the period required for recuperation, the award of compensation of Rs.9,90,000/- towards 'attendant charges' is justified.

6.4 The Tribunal has committed an error in not awarding any compensation towards 'loss of amenities'. The evidence on record indicates that the petitioner was treated as an inpatient for 180 days, has undergone surgeries, and has suffered fracture injuries. The disability has been assessed at 95%. In such circumstances, the Tribunal ought to have awarded compensation under the head 'loss of amenities'. Having regard to the facts of the present case and the evidence on record, we deem it appropriate to award a sum of Rs.1,50,000/- towards 'loss of amenities'.

6.5 The Tribunal has considered the monthly income of the petitioner at Rs.28,200/- based on the pay slips produced at Ex.P.15. Since the total salary exceeds the exempt taxable limit, the Tribunal ought to have deducted Income Tax and Professional Tax. The claimant was in a permanent job and had a steady source of income. The age of the claimant at 37 years



is also not disputed. As per the ratio laid down by the Hon'ble Supreme Court in ***National Insurance Co. Ltd. v/s Pranay Sethi (2017) 16 SCC 680***, loss of future prospects at 50% is to be added. The compensation computed by the tribunal towards disability and towards loss of future prospects separately is reassessed under a single head as under:

a) Monthly income after taxes:

$$\text{Rs.}28,200 - [368(\text{IT}) + 200(\text{PT})] = \text{Rs.}27,632$$

b) Addition of 50% future prospects:

$$\text{Rs.}27,632 + [50\% \text{ of } 27,631] = \text{Rs.}41,448/-$$

c) Loss of future income:

$$\text{Rs.}41,448 \times 12 \times 15 \times 95\% = \text{Rs.}70,87,608/-$$

6.6 The compensation awarded towards 'loss of income during the laid-up period', assessed at Rs.9,30,600/-, is also re-assessed in the light of above observations as under:

$$\text{Rs.}27,632/- \times 33 \text{ months} = \text{Rs.}9,11,856/-$$

7. Accordingly, the total compensation is reassessed as under:



Sl. No.	Particulars	Compensation award by the Tribunal (in Rs.)	Enhanced compensation (in Rs.)
1.	Towards pain and sufferings	1,00,000.00	1,50,000.00
2.	Towards Medical expenses	48,54,400.00	48,54,400.00
3.	Towards Diet, Food Charges	75,000.00	75,000.00
4.	Towards nourishment and conveyance charges	75,000.00	75,000.00
5.	Towards disability	48,22,200.00	70,87,608.00
6.	Towards loss of future prospects	19,28,880.00	
7.	Attendant charges	9,90,000.00	9,90,000.00
8.	Towards loss of income during laid-up period	9,30,600.00	9,11,856.00
9.	Loss of amenities	-	1,50,000.00
	Total	1,37,76,080.00	1,42,93,864.00
	Enhanced compensation	Rs.5,17,784/-	

The compensation awarded by the Tribunal is enhanced to Rs.1,42,93,864/- as against Rs.1,37,76,080/- awarded by the Tribunal.

8. For the reasons recorded above, the following order is passed:

ORDER

- (i) The appeal is ***allowed in-part***.
- (ii) The judgment and award dated 07.03.2024 passed in MVC No.1531/2021 by the XXI Additional Small Causes Judge and MACT,



Bangalore (SCCH-23) is modified by reassessing the compensation at Rs.1,42,93,864/- as against Rs.1,37,76,080/- awarded by the Tribunal.

- (iv) The rate of interest, apportionment and order on deposit as ordered by the Tribunal is maintained.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE