



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.1549/2020 (MV-I)

BETWEEN:

KUMAR VIJETH A. KUMAR
S/O ARUNKUMAR
AGED ABOUT 15 YEARS.

REP. BY NATURAL GUARDIAN
AND FATHER SRI. R. ARUNKUMAR
S/O A. RAMAIAH
AGED ABOUT 44 YEARS
R/AT.NO.2, SUMA MANSION
ACHARYA COLLEGE ROAD
VINAYAKANAGAR
CHIKKABANAVARA
BENGALURU-560090.

...APPELLANT

(BY SRI. BHANU PRAKASH H.V. ADV.,)

AND:

1. SRI. M.R. VENKATESH
S/O RAMACHANDRAPPA
AGED ABOUT 38 YEARS
R/AT H.NO.77, PIPELINE ROAD
GANAPATHINAGARA
CHIKKABANAVARA
BENGALURU-560090
(RC OWNER - CUM DRIVER OF AUTO
RICKSHAW BEARING NO.KA-53-3793).

Digitally signed
by ARSHIFA
BAHAR KHANAM
Location: HIGH
COURT OF
KARNATAKA



2. UNITED INDIA INSURANCE COMPANY LIMITED
POLICY ISSUED AT NO.27/A, 2ND FLOOR
THANGAVELU BUILDING
NEAR INDIAN BANK
JALAHALLI CROSS
BENGALURU-560057
(INSURANCE POLICY CERTIFICATE
NO.0723813116P101255706
VALID FROM 27.04.2016 TO 26.04.2017)

...RESPONDENTS

(BY SRI. D. VIJAYAKUMAR, ADV., FOR R2
V/O/DTD:16.11.2023, NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DT.23.10.2018 PASSED IN MVC
NO.724/2017 ON THE FILE OF THE XVI ADDITIONAL JUDGE,
COURT OF SMALL CAUSES, MEMBER, MACT, BENGALURU
(SCCH-14), PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

THIS APPEAL, COMING ON FOR FURTHER 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 23.10.2018 passed in MVC.No.724/2017 by the XVI Additional Judge, Court of Small Causes and Member, MACT, Bengaluru, (for short, 'Tribunal').

2. Sri.Bhanu Prakash H.V., learned counsel for the appellant submits that the appellant, who was aged about 13 years at the time of accident, sustained grievous injuries and he was provided treatment as an in-patient for 23 days and the Tribunal considering the evidence on record assessed the disability at 40% and applied the principles laid down in the case of **Master Mallikarjurn v. Divisional Manager, National Insurance Co. Ltd. and another¹** and awarded meager compensation. He further submits that the appellant minor is entitled to

¹ ILR 2013 KAR 4891



compensation under the loss of future income due to disability by assessing his wages as per the law laid down by the Hon'ble Supreme Court in the case of ***Hitesh Nagjibhai Patel v. Bababhai Nagjibhai Rabari and Another***². Hence, he seeks to re-assess the compensation by allowing the appeal.

3. Per contra, Sri.D.Vijayakumar, learned counsel for the respondent No.2-Insurance Company supports the impugned judgment and award of the Tribunal and submits that the assessment of the disability by the doctor is to a particular limb and not to the whole body, hence, the disability is required to be assessed at 10%. It is submitted that the appellant, being a minor, there is no evidence on record to show that he has lost the educational prospects, etc. Hence, there cannot be any compensation towards the loss of future income due to disability. It is further submitted that the award of compensation by the Tribunal is just and fair and there is

² 2025 ACJ 1986



no scope for enhancement. Hence, he seeks to dismiss the same.

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

5. The appellant is a minor, who was aged about 13 years as on the date of accident i.e., on 02.11.2016. The appellant met with an accident and sustained grievous injury of deep wound degloving with exposed joint bones over left elbow region and multiple abrasions and he underwent surgery on 03.11.2016. The appellant was in-patient in the hospital from 02.11.2016 to 16.11.2016 and again re-admitted on 06.12.2016 to 13.12.2016 totally for a period of 23 days. The appellant examined himself and deposed before the Tribunal as PW1 and Dr.Sudhir B.M. was examined as PW2. The appellant got marked the documents as per Exs.P1 to P14. The respondents did not adduce any evidence. The Tribunal applying the ratio laid



down by the Hon'ble Supreme Court in the case of **Mallikarjurn** referred supra, assessed the disability at 10% and awarded total compensation of Rs.4,43,000/- along with the interest at the rate of 7% per annum by directing the respondent-Insurance Company to make good of the same.

6. The Hon'ble Supreme Court, in the case of **Hitesh Nagjibhai Patel** referred supra, at para Nos.9 and 15 has held as under:

"9. The aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this



Court, in Kajal v. Jagdish Chand and Ors³ , and Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr⁴

15. For the purpose of emphasis, it is again clarified here that when a Tribunal or the High Court in appeal, is concerned with the case involving a child having suffered injury or having passed away, the calculation of loss of income necessarily has to be made on the matrix of minimum wages payable to a skilled worker in the respective State at the relevant point of time. It is our hope that this restatement helps avoiding such errors and thereby obviates the necessity of this Court's interference, applying well-established principles of law."

7. Keeping in mind the enunciation of law laid down by the Hon'ble Supreme Court referred supra, I am of the considered view that the income of the minor is required to be assessed by considering the minimum wages for the relevant year. In the case on hand, the accident is of the year 2016, hence, the income is required to be assessed at Rs.9,500/- per month placing reliance on the notional income chart prepared by KSLSA. The Tribunal taking note of the oral evidence of PW2-Doctor

³ (2020) 4 SCC 413

⁴ 2024 SCC Online SC 3692



and other medical evidence on record and by considering the injuries suffered and treatment provided to the appellant, assessed the disability at 10% which is in consonance with the evidence on record, and the same does not call for any modification.

8. Having re-assessed the income and considering the disability, the compensation under the head of loss of future income due to disability is re-assessed as under:

$$\text{Rs.}9500 \times 12 \times 18 \times 10\% = \textbf{Rs.2,05,200/-}.$$

9. Having re-assessed the income and disability and considering the fact that the appellant was in-patient for 23 days and provided treatment, I am of the considered view that the compensation awarded under other heads is also required to be enhanced appropriately. Hence, the appellant would be entitled to compensation of **Rs.60,000/-** towards pain & suffering; **Rs.30,000/-** towards food, nourishment, conveyance and attendant charges; **Rs.60,000/-** towards loss of amenities in life;



and a compensation of **Rs.28,500/-** (Rs.9,500 X 3) is awarded towards the loss of income of the father of the minor injured during the treatment period. The compensation awarded by the Tribunal towards medical expenses is unaltered. Thus, the appellant would be entitled to modified compensation as under:

HEADS	AMOUNT (in Rs.)
Loss of future income due to disability	2,05,200
Pain & suffering	60,000
Food, nourishment, conveyance and attendant charges	30,000
Medical expenses	69,000
Loss of amenities in life	60,000
Loss of income of the father of appellant-injured during treatment period	28,500
Total	4,52,700

Thus, the appellant-claimant shall be entitled to a total compensation of **Rs.4,52,700/-** as against Rs.4,43,000/- awarded by the Tribunal.

10. 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.4,52,700/-** as against Rs.4,43,000/- 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 excluding the interest for the delayed period of 326 days as per the order dated 24.03.2026.
- 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) Draw modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

BSR
List No.: 1 Sl No.: 5