



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 7655 OF 2024 (MV-I)

BETWEEN:

SRI. MAHESH H M
S/O MANJANNA
AGED ABOUT 33 YEARS,
R/O HALEPETE, KYATHSANDRA,
TUMAKURU - 572 110.

...APPELLANT

(BY SRI RAMESH.K.R., ADVOCATE)

AND:

1. SRI ANJANAMURTHY,
S/O BHYLAHANUMAIAH
AGED ABOUT 51 YEARS,
R/O NO.252, 1ST MAIN ROAD
8TH CROSS, MANJUNATHANAGARA
BENGALURU - 560 010.

2. THE MANAGER
UNITED INDIA INSURANCE CO. LTD.,
ROOM NO.1, 2ND FLOOR,
SRI PARSHWALAKSHMI, B.H.ROAD,
NELAMANGALA - 562 123.

...RESPONDENTS

(BY SRI B.C.SHIVANNE GOWDA, ,ADVOCATE FOR R2;
vide order dated 12.02.2026 Notice to R1 is dispensed with)





THIS MFA FILED U/S.173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 29.09.2023 PASSED IN MVC NO.1448/2018 ON THE FILE OF THE III ADDITIONAL SENIOR CIVIL JUDGE AND MACT, TUMAKURU, 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 MRS. JUSTICE P SREE SUDHA

ORAL JUDGMENT

Heard the arguments on both sides.

2. This appeal is filed by the petitioner/appellant against the award of the Tribunal dated 29.09.2023 in M.V.C.No.1448 of 2018 seeking enhancement of compensation.

3. The facts of the case in brief is that the petitioner met with an accident on 09.09.2018 at about 4.00 pm when he was proceeding on his Splendor Plus motorbike bearing Registration No.KA-52-K-8608 after attending a function and returning to his village on



Koratagere-Dabaspete road at Tannenahalli village near the land of one Basavaraju. At that time, driver of Maruthi Omni Car bearing Registration No.KA-41-M-8174 drove his vehicle in a rash and negligent manner with high speed and came from opposite direction and dashed against the petitioner, as a result of which, the petitioner sustained multiple injuries all over his body. Immediately, after the accident, the petitioner was shifted to Hemavathi Orthopedic and Trauma Centre, Tumakuru, wherein he was admitted as an inpatient and took treatment for 12 days and during that period, the petitioner underwent operation and implants were fixed to his fractured parts. He was discharged with an advise to take treatment as outpatient periodically and spent Rs.4,00,000/- towards medicine, conveyance and other incidental charges.

4. Consequently, the petitioner filed a claim petition claiming compensation of Rs.30,00,000/- together with 12% interest per annum from the date of petition till realization, for the injuries sustained by him in the said



accident. The Tribunal, after considering the entire evidence on record, granted an amount of Rs.10,85,026/- with 6% interest per annum from date of petition till the date of realization.

5. Shri.Ramesh.K.R., learned counsel appearing for the petitioner/appellant mainly contented that the petitioner sustained grievous injuries. The Doctor who treated the petitioner was also examined as PW-2 before the Tribunal. In his evidence, he has stated that the petitioner has suffered the following injuries:

1. *Comminuted fracture; both bone (R) forearm with radial nerve palsy.*
2. *(R) Radial head fracture.*
3. *Type II fracture shaft (R) femur with neck fracture.*
4. *IDK (R) Knee.*

6. Further, PW-2/Doctor has stated that the petitioner underwent surgery on 10.09.2018 with CRIF with PFN, ORIF with DCP with radial head excision and got



discharged on 24.09.2018. Again, the petitioner visited him on 25.11.2022 with the following complaints:

1. *Pain in his right hip knee and ankle.*
2. *Note able to move right upper limb.*

7. After recent clinical and radiological examination, the petitioner is having old united fracture (R) femur implant in site old united fracture both bone (R) forearm with implant in site with brachial plexus injury. The petitioner has been advised regularly physiotherapy and has also been advised to undergo implant removal approximate cost of surgery is around Rs.80,000/-. That based on the age of the petitioner, nature of injury, clinical, radiological examination and Government of India Gazette Notification, the petitioner has suffered 90% of physical disability of right upper limb and 48% of lower limb and whole body disability at 46%.

8. Learned counsel for the appellant further contends that the Tribunal has taken 25% without any



basis. The petitioner was an inpatient for 15 days and thereafter, he took treatment as an outpatient for six months. The amount granted under the other heads are meager. The petitioner was working as Maintenance Assistant in a private firm, namely, Biogeene Extracts Private Limited, Sompura Industrial Area and earning Rs.15,500/- per month. As the petitioner did not produce any document to establish that he was working under a private firm and earning a sum of Rs.15,500/-, the Tribunal has taken the income of the petitioner as Rs.12,500/- per month as per the chart prepared by the Karnataka Legal Services Authority. On these grounds, learned counsel for the appellant requested for enhancement of the compensation.

9. Learned counsel appearing for Respondent No.2 contended that as per the medical evidence, the fractures are united therefore, the Tribunal has rightly taken disability to the whole body at 25%.



10. Though the petitioner has stated that he was working in a private firm and earning Rs.15,500/- per month, he has not furnished any document to substantiate the same. As the petitioner met with an accident in the year 2018, as per the Guidelines of the Karnataka Legal Services Authority, his monthly notional income has to be taken as Rs.12,500/- per month and the award of the Tribunal is just and reasonable and prayed to dismiss the appeal.

11. On perusal of records, it is indicated that at the time of the accident, the petitioner was aged 27 years. the Doctor was examined as PW2 has stated that on clinical and radiological examination, the petitioner is having old united fracture of Right femur implant in site old united fracture both bones (R) forearm with implant in site with brachial plexus injury. The petitioner has been advised regular physiotherapy and has also been advised to undergo another surgery for removal of the implants. The estimated cost of surgery is around Rs.80,000/- and the



Doctor has further stated that the petitioner was suffering from physical disability of right upper limb is 90% and the lower limb is 48% and the whole body disability as 26%. But the Tribunal has taken whole body disability at 25% without any basis.

12. Learned counsel for the appellant has also filed the photograph and video of the petitioner showing that he cannot move his right arm and right leg he is limping while walking. To substantiate the same, he has produced disability certificate at Ex.P11, which indicates that the petitioner has 80% permanent disability in relation to his right arm right leg. As at Ex.P11, it is stated that the petitioner is a case of 'Locomotor Disability' and he could not sign with the right hand and cannot do any other work with the right hand, therefore, this Court finds it reasonable to take whole body disability at 35% and the petitioner is entitled for future prospects as per the citation reported in M.F.A.No.103807 of 2016 c/w M.F.A.No.103835 of 2016 (Dharwad Bench) disposed of on



27.05.2022, wherein it was held that if the disability is more than 20%, future prospects should be added. Considering the medical bills, the Tribunal has granted Rs.2,85,025.76/- and the same is not interfered by this Court.

13. The petitioner was hospitalized for a period of 15 days. Considering the nature of injuries, loss of future earning capacity comes to $(12,500 \times 12 \times 17 \times 35\% + 40\%) = \text{Rs.}12,49,500/-$. Period of hospitalization, his occupation, this Court finds it reasonable to grant compensation under the following heads:

Particulars	Amount (Rs.)
Pain and suffering	1,00,000
Medical bills	2,85,025
Loss of amenities	60,000
Transportation	60,000
Future medical expenses	50,000
Loss of future earning capacity	12,49,500
Loss of income during laid up period $(12,500 \times 4) =$	50,000
Loss of marriage prospects	2,00,000
Total	20,54,525



14. Hence, the compensation is enhanced to Rs.20,54,525/- as against Rs.10,85,026/- along with interest at 6% per annum from the date of petition till the date of deposit.

15. In the result, the following order is passed:

ORDER

- i. Appeal is ***allowed-in-part.***
- ii. The judgment and award dated 29.09.2023 passed in M.V.C.No.1448 of 2018 by the III Additional Senior Civil Judge and MACT, Tumakuru, is modified;
- iii. The appellant is entitled to a sum of **Rs.20,54,525/-** along with interest at 6% p.a. from the date of petition till the date of realization as against **Rs.10,85,026/-**.
- iv. Respondent No.2 is directed to deposit the enhanced amount of compensation, i.e., (Rs.20,54,525-Rs.10,85,026)= **Rs.9,69,499/-**



within one month from the date of this order.

- v. On such deposit, the appellant is permitted to withdraw the entire amount along with accrued interest.
- vi. Registry is directed to return the Trial Court records to the Tribunal, along with certified copy of the order passed by this Court forthwith, without any delay.
- vii. The appellant is not entitled for interest for the delayed period of 330 days in filing the appeal.
- viii. Draw award accordingly.

Sd/-
(P SREE SUDHA)
JUDGE