



IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 23RD DAY OF MARCH, 2026

**BEFORE
THE HON'BLE MR. JUSTICE RAVI V.HOSMANI**

MISCELLANEOUS FIRST APPEAL NO.101650 OF 2015 (MV-D)
C/W

MISCELLANEOUS FIRST APPEAL NO.101080 OF 2015 (MV-I)

IN MFA NO. 101650/2015

BETWEEN:

THE MANAGER, NATIONAL INSURANCE COMPANY LTD.,
HUDDAR BUILDING, 1ST FLOOR,
RAILWAY STATION ROAD, DHARWAD-580001.
NOW REPRESENTED BY ITS DEPUTY MANAGER,
REGIONAL OFFICE, II FLOOR, ARIHANT PLAZA,
KUSUGAL ROAD, KESHWAPUR, HUBBALLI-580023.

...APPELLANT

(BY SRI SK KAYAKAMATH, ADVOCATE)

AND:

1. KUMARI SANA D/O ABDULKADIR KUBSAD,
AGE: 06 YEARS, OCC. STUDENT,
SINCE MINOR, REPRESENTED BY HER NATURAL
MOTHER SMT. SHABANA W/O ABDULKADIR KUBSAD,
AGE: 26 YEARS, OCC. HOUSEWIFE,
R/O OLD DANDELI, DIST. U.K.
NOW RESIDING AT C/O DILAWAR DASTAGIR DHARWAD,
INDIRA NAGAR, BAILHONGAL, DIST. BELAGAVI.

2. SHRI HANUMANTH MALLAPPA UPPER,
AGE: 35 YEARS, OCC. BUSINESS,
R/O BLOCK NO.130/13, TOWNSHIP DANDELI,
DIST. UTTARA KANNADA-581 325, KARNATAKA.
(OWNER OF BAJAJ TEMPO CRUISER
BEARING REGISTRATION NO.KA 25/N-1893)

...RESPONDENTS

(BY SRI HANAMANT R. LATUR, ADVOCATE FOR R1;
SRI VISHWANATH V. BADIGER, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, 1988,
AGAINST THE JUDGMENT AND AWARD DATED 04.02.2015 PASSED IN
MVC NO.1097/2013 ON THE FILE OF THE SENIOR CIVIL JUDGE AND



NC: 2026:KHC-D:4428
MFA No. 101650 of 2015
C/W MFA No. 101080 of 2015

ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BAILHNGAL,
AWARDING THE COMPENSATION OF RS.3,00,000/- WITH INTEREST AT
THE RATE OF 9% P.A. FROM THE DATE OF PETITION TILL THE DATE OF
DEPOSIT & ETC.

IN MFA NO. 101080/2015

BETWEEN:

KUMARI SANA D/O ABDULKADIR KUBSAD,
AGE: 08 YEARS, OCC: STUDENT,
(SINCE MINOR R/BY HER NATURAL MOTHER)
SMT. SHABANA W/O ABDULKADIR KUBSAD,
AGE: 28 YEARS, OCC: HOUSEWIFE,
R/O OLD DANDLI, DIST: UTTARA KANNADA,
NOW RESIDING AT C/O DILAWAR DASTAGIR DADWAD,
INDIRA NAGAR, BAILHONGAL, DIST: BELAGAVI.

...APPELLANT

(BY SRI HANAMANT R. LATUR, ADVOCATE)

AND:

1. SHRI HANUMANTH MALLAPA UPPER,
AGE: 37 YEARS, OCC: BUSINESS,
R/O BLOCK NO.130/13, TOWNSHIP,
DANDELI, DIST: NORTH KANNADA-581 325.
(OWNER OF BAJAJ TEMPO CRUISER
BEARING NO.KA-25/N-1893)
2. THE MANAGER,
NATIONAL INSURANCE CO. LTD.,
HUDDAR BUILDING, 1ST FLOOR,
RAILWAY STATION ROAD, DHARWAD-580001.
(INSURER OF BAJAJ TEMPO CRUISER
BEARING REG.NO.KA-25/N-1893)

...RESPONDENTS

(BY SRI VISHWANATH V. BADIGER, ADVOCATE FOR R1;
SRI SK KAYAKAMATH, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT 1988,
AGAINST THE JUDGMENT AND AWARD DATED 04.02.2015 PASSED
IN MVC NO.1097/2013 ON THE FILE OF THE SENIOR CIVIL JUDGE
AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL
BAILHONGAL, PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION
& ETC.



THESE APPEALS COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 04.02.2015 passed by Senior Civil Judge and Additional M.A.C.T., Bailhongal (for short '**Tribunal**') in MVC no.1097/2013, these appeals are filed. While MFA no.101650/2015 is filed by insurer challenging award on quantum, MFA no.101080/2015 is filed by claimant for enhancement of compensation.

2. Sri SK Kayakamath, learned counsel for appellant/insurer submitted that on 03.02.2013 at 01.45 p.m., when Kumari Sana, a minor aged 6 years was proceeding on left side of old Dandeli Road, near Sawmill Chawl, driver of Cruiser no.KA-25/N-1893 drove it in rash and negligent manner and dashed against claimant. In said accident, she sustained grievous injuries and despite treatment at Government Hospital, Dandeli and SDM Hospital, Dharwad, she did not recover fully. Claiming compensation she filed claim petition under Section 166 of Motor Vehicles Act against owner and insurer of Cruiser.



3. On service of notice, owner did not appear and was placed ex-parte. Insurer opposed claim petition on all counts. Based on pleadings, Tribunal framed issues and recorded evidence. Claimant examined her mother as PW1 and Dr.CD Kulkarni as PW2 and Ex.P1 to P63 were got marked. In rebuttal, insurer got marked insurance copy as Ex.R1 with consent.

4. On consideration, Tribunal held accident had occurred due to rash and negligent driving of Cruiser by its driver and claimant was entitled for compensation from insurer as follows:

Pain and suffering already undergone and to be suffered in future, mental and physical shock, hardship, inconvenience and discomforts, etc., and loss of amenities in life on account of permanent disability.	Rs.2,00,000/-
Medical and hospital charges	Rs.30,000/-
Nourishment charges	Rs.30,000/-
Attendant and conveyance	Rs.20,000/-
Loss of income during treatment period of the guardian of petitioner	Rs.20,000/-
Future medical expenses	Rs.50,000/-
Total	Rs.3,50,000/-

Aggrieved, insurer was in appeal.



5. It was firstly submitted, claimant was a minor girl aged 6 years, who claims to have sustained disability on account of motor vehicle accident. Since, claimant was a non-earning member, assessment of compensation has to be as per method evolved in ***Master Mallikarjun v. Divisional Manager, the National Insurance Company Limited & Anr***, reported in ***(2014) 14 SCC 396***, and separate award under various heads would not be permissible. It was further submitted even rate of interest granted at 9% per annum was excessive and sought for reduction.

6. On other hand, Sri HR Lathur, learned counsel for claimant/respondent, submitted there was no dispute about occurrence of accident and claimant sustaining injuries namely fracture of 2nd, 3rd, 4th and 5th metatarsal as well as fracture of left tibia. Dr.CD Kulkarni, examined as PW3 assessed permanent physical in disability of 35% to affected limb as per Ex.P61 Disability Certificate. Though, whole body disability may be lesser than compared to limb disability, same would in any case fall between 10% and 30% entitling for lump sum compensation of ₹3,00,000/- under II slab in ***Master Mallikarjun's*** case. Apart from same, claimant would be



entitled for amount spent towards medical expenses, conveyance and loss of income of parents during treatment recuperation. On said ground sought for allowing claimant's appeal and dismiss insurer's appeal.

7. Heard learned counsels and perused impugned judgment, award and record. From above, since both insurer as well as claimant are in appeal challenging award on quantum, point that would arise for consideration is,

"Whether assessment of compensation
by Tribunal calls for modification?"

8. The same is answered partly in affirmative for following reasons:

At outset, there is no dispute that claimant a minor girl, aged 6 years, sustained injuries as a result of negligent driving of insured vehicle by its driver and being entitled for compensation. Dispute subsists regarding quantum. Hon'ble Supreme Court in case of **Master Mallikarjun's** case has evolved a method, wherein quantum of compensation would be based on extent of permanent physical disability sustained. Ex.P7 Wound Certificate, Ex.P60 patient treatment record, Ex.P8 Discharge Summary and Ex.P61 Disability Certificate



coupled with Exs.P62 and P63 X-rays would indicate claimant has sustained fracture of 2nd, 3rd, 4th and 5th metatarsal of left leg as well as circular fracture of lower 1/3rd of left tibia. Exs.P57 to P59 would indicate claimant having sustained a crush injury to left foot with degloving of skin around ankle. Same is treated by harvesting skin from thigh area. PW2 Dr.CD Kulkarni, on examination of claimant and referring to treatment records, assessed permanent physical disability to affected limb at 35%. Though, extent of disability is likely to reduce, taking note of growing age of claimant, as well as whole body disability would be a fraction of limb disability, assessment of functional disability at 15% by Tribunal appears to be just and proper in fact and circumstances of case. Consequently, claimant would be entitled for compensation of **₹3,00,000/-** towards pain and suffering, amenities.

9. Apart from above, claimant would be entitled for amount spent towards medical expenses, towards conveyance etc. Claimant has produced bills for **₹24,184/-**. Therefore same is awarded to claimant towards medical expenses. Normally, fractures take about 3 months to heal. Considering



year of accident as 2013 and taking notional income for said period at Rs.7,000/-, parent of claimant would have lost income for period of 3 months. Therefore, a sum of **Rs.21,000/-** is awarded towards loss of income of parent during treatment/recuperation. Taking note of inpatient treatment period of period of 13 days, even though there are no specific records produced to support conveyance etc., notional amount of **Rs.13,000/-** is awarded towards conveyance and other incidental expenses.

10. There are no specific records to support compensation towards future medical expenses. Therefore same is set aside. Consequently claimant would be entitled for total compensation of **Rs.3,58,184/-**. It is seen that difference in amount would be minimal at same time taking note of fact that rate of interest awarded is 9%, point for consideration is answered in negative in both cases. Consequently following:

ORDER

- i. Both appeals are dismissed.



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MFA No. 101650 of 2015
C/W MFA No. 101080 of 2015

- ii. Amount in deposit in insurer's appeal is ordered to be transmitted to Tribunal for payment.
- iii. Balance amount to be deposited within 6 weeks from date of receipt of certified copy of this order.

Sd/-
(RAVI V.HOSMANI)
JUDGE

CKK,EM
CT:VP
LIST NO.: 1 SL NO.: 16