

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 9TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

MISCELLANEOUS FIRST APPEAL NO.101615 OF 2014

BETWEEN:

VIVEK S/O. PARASHURAM BENDIGERI
AGE: 22 YEARS,
OCC: STUDENT AND MANUFACTURING,
CHAPPALS AND SHOES,
R/O. NAVANAGAR, BAGALKOT,
TQ: BAGALKOT, DIST: BAGALKOT.

...APPELLANT

(BY SRI P.N. HOSAMANE, ADVOCATE)

AND:

1. VENKAPPA S/O. BHIMAPPA KALADAGI
AGE: 52 YEARS, OCC: OWNER OF TT UNIT BEARING
NO. KA-29/TA-4107,
R/O. KAGALAGOMBA VILLAGE,
TQ: BADAMI, DIST: BAGALKOT.
2. SMT. BASAMMA W/O. BASAPPA KANDGAL
AGE: 42 YEARS,
OCC: OWNER OF A/R CAB BEARING NO.KA.29/9573
R/O. PLOT NO. C-31, SECTOR NO.29,
NAVANAGAR, BAGALKOT.
3. THE BRANCH MANAGER
NATIONAL INSURANCE CO. LTD.,
MELLIGERI COMPLEX, KALADAGI ROAD, BAGALKOT.
POLICY NO.602604/31/6300003748
VALIDITY FROM 30.05.2011 TO 26.08.2012

...RESPONDENTS

(BY SRI M.C. HUKKERI, ADVOCATE FOR R1;
SRI. N.L. BATAKURKI, ADVOCATE FOR R2;
SRI. RAJESH B. RAJANAL, ADVOCATE FOR R3)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173 (1) OF THE MOTOR VEHICLES ACT, PRAYING TO MODIFY AND ENHANCE THE JUDGMENT AND AWARD DATED 25.06.2013 PASSED BY THE COURT OF MEMBER M.A.C.T.-II BAGALKOT IN MVC NO.603/2011 IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL IS COMING ON PRONOUNCEMENT AND THE SAME HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 17.03.2026, THIS DAY, DELIVERED THE FOLLOWING:

CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI)

The claimant in MVC No.603/2011 on the file of learned MACT-II, Bagalkot (in short 'the Tribunal') has maintained this appeal praying to modify the judgment and award dated 25.06.2013 passed therein and to enhance the compensation as claimed in the petition.

2. The claimant maintained the petition in MVC No.603/2011 under Section 166 of Motor Vehicles Act seeking compensation of Rs.15,00,000/- from the owners of vehicles i.e., Tractor-Trailors bearing Nos.KA-29-TA-4107/4108/4109 and Autorickshaw Cab bearing No. KA-29-9573 and the insurer of the Autorickshaw Cab, on the ground that on 02.08.2011 at 12.30 p.m. when he was travelling in Autorickshaw Cab from Navanagar, near APMC Cross on Navanagar - Bagalkot Road, he met with an accident due to actionable negligence on the

part of the driver of Tractor-Trailers bearing No.KA-29-TA-4107/4108/4109, which was coming from opposite direction and sustained grievous injuries.

3. On service of notice, all the three respondents appeared before the Tribunal and filed their objection to the claim petition. Thereafter, the Tribunal framed issues in the case, held enquiry and disposed of the matter on merits of the case. The Tribunal, based on materials on record, held that the driver of Tractor-Trailers was responsible for the accident and allowed the claim petition in part holding that the claimant is entitled for compensation of Rs.62,000/- with interest at the rate of 6% per annum from the date of petition till its realization. The Tribunal further directed the owner of the Tractor-Trailers to satisfy the award.

4. The claimant, being dissatisfied with the quantum of compensation awarded by the Tribunal, has directed this appeal seeking enhancement of the compensation. Sri P.N. Hosamane, learned Counsel for Claimant vehemently submitted that the Tribunal has not properly considered the percentage of disability suffered by the claimant on account of the accident in question and his income at the relevant point of time. He further submitted that the Tribunal has not properly considered

all the materials available on record and failed to award a just compensation by taking into all relevant factors. As such, he prayed to allow the appeal and to modify the impugned award suitably.

5. Learned Counsel appearing for Respondent No.1 supported the findings recorded by the Tribunal and submitted that the claimant has not made out any valid ground to enhance the compensation awarded by the Tribunal. Whereas, learned Counsels appearing for Respondent Nos.2 and 3 submitted that the claimant has not challenged the order of the Tribunal holding them not liable to pay compensation to the claimant and as such, said order needs to be maintained.

6. Having heard the arguments of the counsels appearing for both sides, the only point that arises for the consideration of this Court is 'whether the claimant has made out valid grounds to enhance the compensation awarded by the Tribunal?'

7. The Tribunal awarded a total compensation of Rs.62,000/- to the claimant under the following heads:

| Sl.No. | Heads | Amount (in Rs.) |
|--------|----------------------------|------------------|
| 1. | Towards pain and suffering | 40,000.00 |
| 2. | Towards medical expenses | 20,000.00 |
| 3. | Towards transportation | 2,000.00 |
| | Total : | 62,000.00 |

8. In his evidence the claimant stated that due to the accident in question he had suffered fracture of pelvic bone and femur apart from other simple injuries. The wound certificate marked at Ex.P5 and the case sheet marked at Ex.P8 goes to show that the claimant had suffered left pubic body displaced fracture involving medial wall of acetabulum, left femoral head posterior dislocation, left ischial tuberosity fracture, diastasis of symphysis pubic and left sacroiliac joint separation and right superior and inferior pubic rami fractures. Ex.P8 also indicates that the claimant has undergone treatment at Patil Medicare Hospital as an inpatient from 02.08.2011 to 12.08.2011 and that he was treated with closed reduction for dislocation of left hip joint. The documents marked at Ex.P7 go to show that the claimant has spent a total sum of Rs.79,015/-.

9. The impugned judgment goes to show that the Tribunal proceeded to hold that Ex.P8 does not disclose the claimant having undergone surgery and the said record does

not contain consent letter and nurses notes. In view of the same, the Tribunal opined that the wound certificate, X-ray films, CT scan and case sheet cannot be considered. The Tribunal disbelieved the version of the claimant about he having suffered dislocation of left hip on the ground that X-rays, CT scan and case sheet does not disclose about such injury and proceeded to award a sum of Rs.40,000/- under the head of pain and suffering, by presuming that he has suffered hairine fracture on his left hip and lacerated wound over left thigh. The Tribunal even did not consider the bills produced at Ex.P7 on the ground that he has not taken treatment as an inpatient and he did not undergo any surgery. These observation/findings of the Tribunal are contrary to contents of the case sheet produced at Ex.P8 and CT scan report available in the said record. Thereby, it becomes clear that the Tribunal has committed grave error in failing to properly appreciate the materials placed on record and to award just compensation under the head of pain and sufferings and medical expenses. Based on the materials available on record, this Court holds that the claimant is entitled for compensation of Rs.60,000/- under the head of pain and sufferings and Rs.79,015/- under the medial expenses.

10. If we take into consideration nature of injuries sustained by the claimant, in all probability, he needed about three months' period for healing up and recovery. According to the claimant though he was a student at the time of the accident, he was also earning a sum of Rs.6,000/- per month as a maker of chappals, shoes etc. It is true that the claimant has not placed any documentary evidence to prove his income at the time of the accident. Even then, basing on the chart of KSLSA prepared for settlement of the cases before the Lok-Adalath, this Court opines that it would be proper to presume income of the claimant notionally as Rs.6,000/- per month. In that event, the claimant would be entitled to compensation of Rs.18,000/- (Rs.6000/- x 3) under the head of loss of income during the period of treatment.

11. The claimant has contended that due to the injury sustained in the accident, he has suffered physical and mental disabilities, which have bearing on his future life including marital life. In this regard, the claimant is relying on the evidence of PW-2, Dr. Hanamant. In his evidence, PW-2 has opined that the claimant has got permanent physical disability of 40% to his left lower limb as he is unable to stand for long time and walk freely or even sit properly with crossed leg. If we

take into consideration the avocation of the claimant, it is to be held that the alleged permanent physical disability have no bearing on the future earning capacity of the claimant. In view of the same, it is held that the claimant has not made out a valid ground to seek compensation under the head of loss of future income.

12. The materials on record amply prove that the claimant had suffered grievous injuries such as displaced fracture of left pubic and fracture of right superior and inferior pubic rami. As such, one cannot rule out the chances of the claimant having physical disabilities or discomforts on account of such injuries as stated by PW-2. Taking into consideration the age of the claimant as on the date of the accident and probable physical discomforts to be suffered during rest of his life, this Court holds that it is proper to award a sum of Rs.25,000/- to the claimant under the head of loss of amenities.

13. For the foregoing reasons, this Court holds that the claimant is entitled for total compensation of Rs.1,82,015/- in place of Rs.62,000/- awarded by the Tribunal under the following heads:

| Sl.No. | Heads | Amount (in Rs.) |
|--------|--------------------------------------|--------------------|
| 1. | Towards pain and suffering | 60,000.00 |
| 2. | Towards medical expenses | 79,015.00 |
| 3. | Towards Loss of amenities | 25,000.00 |
| 4. | Loss of income during laid up period | 18,000.00 |
| | Total | 1,82,015.00 |

14. It is the definite case of the claimant that he had met with the accident due to actionable negligence on the part of the driver of the Tractor-Trailers bearing No.KA-29-TA-4107/4108/4109. Thereby, it becomes clear that the owner and insurer of Autorickshaw Cab bearing No.KA-29-9573 are no way concerned with payment of compensation as determined in the case. Accordingly, the Tribunal absolved them from the liability of paying the compensation to the claimant. Even, the claimant has no grievance in this regard. As such, it is held the owner of Tractor-Trailers in question is solely liable to pay the compensation as determined in the case. Accordingly, the point for consideration is answered in the 'affirmative'.

15. In the result, this Court proceeds to pass the following:

ORDER

- (i) The appeal is allowed in part.
- (ii) The claimant is entitled for compensation of Rs.1,82,015/- in place of Rs.62,000/- awarded by the Tribunal with interest at the rate of 6% per annum from the date of petition till realization.
- (iii) Consequently, the judgment and award dated 25.06.2013 in MVC No.603/2011 passed by the learned MACT-II, Bagalkot is modified accordingly.
- (iv) Draw modified award accordingly.
- (v) The registry is directed to send back the trial court record to concerned Tribunal, forthwith.

**Sd/-
(B. MURALIDHARA PAI)
JUDGE**

RKM, YAN
CT: CMU