

**IN THE HIGH COURT OF KARNATAKA, AT DHARWAD**

**DATED THIS THE 6<sup>TH</sup> DAY OF FEBRUARY, 2026**

**BEFORE**

**THE HON'BLE DR. JUSTICE K.MANMADHA RAO**

MISCELLANEOUS FIRST APPEAL NO.101614 OF 2017 (MV)

**BETWEEN:**

KUMARI. PRATIKSHA D/O MOHAN BHUIMBAR,  
AGE: 12 YEARS, OCC: NIL,  
SINCE MINOR REPRESENTED BY HER  
MINOR GUARDIAN NATURAL FATHER,  
SHRI MOHAN S/O NARAYAN BHUIMBAR,  
AGE: 44 YEARS, OCC: AGRICULTURE,  
R/O: KAKATI-591113, TQ. AND DIST: BELAGAVI.

...APPELLANT

(BY SMT. SUNANDA P. PATIL, ADVOCATE)

**AND:**

1. SHRI. SAMIR S/O MALLAPPA JADHAV  
AGE: 36 YEARS, OCC: AGRICULTURE,  
R/O: DUNDAGE-416501,  
TQ: GADHINGLAJ, DIST: KOLHAPUR,  
MAHARASTRA STATE.  
(OWNER OF HERO HONDA MOTORCYCLE  
NO.MH-09/AJ-9220)
2. THE NATIONAL INSURANCE CO. LTD.,  
AJARA BRANCH REPRESENTED BY ITS,  
DIVISIONAL MANAGER, DIVISIONAL OFFICE,  
RAM DEV GALLI, BELAGAVI-590001.  
(INSURER OF HERO HONDA MOTORCYCLE  
NO.MH-09/AJ-9220)

...RESPONDENTS

(BY SRI. G.N. RAICHUR, ADVOCATE FOR R2;  
R1-SERVED)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLE ACT 1988, PRAYING TO ALLOW THE APPEAL BY SETTING ASIDE THE JUDGMENT AND AWARD DATED 23.01.2017 IN MVC NO.2197/2013 PASSED BY THE II ADDITIONAL DISTRICT JUDGE AND MACT III BELAGAVI TO THE EXTENT OF DISALLOWED CLAIM AND ENHANCE THE COMPENSATION TO THE TUNE OF RS.4,00,000/-IN THE INTEREST OF JUSTICE AND EQUITY.

THIS MFA HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 29.01.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE DR. JUSTICE K.MANMADHA RAO

**CAV JUDGMENT**

1. This appeal is filed by the minor claimant represented by her natural guardian under Section 173(1) of the Motor Vehicles Act, 1988, calling in question the judgment and award dated 23.01.2017 passed in MVC No.2197/2013 on the file of the II Additional District Judge and MACT-III, Belagavi, seeking enhancement of compensation.

2. The appellant was aged about 8 years at the time of the accident that occurred on 26.01.2011. On that day, while she was returning home after attending the Republic Day function at her school in Basarage village of Gadhinglaj Taluk, she was hit by a Hero Honda motorcycle bearing registration No.MH-09/AJ-9220, which was ridden in a rash and negligent manner. As a result, she sustained grievous head injuries including brain hemorrhage and fracture of occipital bone. She was initially treated at Gadhinglaj and thereafter shifted to Dr. Santosh Prabhu Hospital, Kolhapur, where she was admitted as an

inpatient from 26.01.2011 to 02.02.2011. The nature of injuries is evidenced by Exs.P4, P5, P7, P13, P14 and P15.

3. The claim petition was filed seeking compensation of Rs.4,00,000/-. The Tribunal by judgment dated 23.01.2017 held that the accident occurred due to rash and negligent riding of the offending motorcycle and awarded total compensation of Rs.1,80,000/- with interest at 9% per annum from the date of judgment. Aggrieved by the quantum of compensation, the present appeal is filed.

4. Learned counsel for the appellant submits that the Tribunal has erred in assessing the permanent disability of the minor appellant at only 5-6% despite clear medical evidence at Ex.P12. It is contended that PW-2, a qualified Orthopaedic Surgeon, has assessed permanent disability at 25% to the whole body based on clinical examination and radiological evidence, and the said evidence has remained unchallenged. It is further submitted that the Tribunal has failed to properly apply the law laid down by the Hon'ble Supreme Court in **Master Mallikarjun v. Divisional Manager, National Insurance Co. Ltd.**, reported in **2013 ACJ 2445**, which mandates structured compensation for children suffering permanent disability.

Therefore, it is prayed that compensation under the head of permanent disability be enhanced to Rs.3,00,000/- while leaving other heads untouched.

5. Per contra, learned counsel for the respondent-insurance company submits that the judgment and award passed by the Tribunal is just and reasonable. It is contended that the disability certificate at Ex.P12 cannot be relied upon as PW-2 is not a Neuro Surgeon and is not competent to assess neurological disability. It is further contended that the Tribunal has rightly reduced the disability to 5-6% and awarded Rs.1,00,000/- towards permanent disability. It is also submitted that the decision in **Master Mallikarjun** supra is not applicable to the facts of the present case and therefore no interference is called for.

6. Heard the learned counsel for the parties and perused the material placed on record.

7. On consideration of the rival submissions and material on record, this Court finds no merit in the objections raised by the respondent-insurance company. Ex.P12 disability certificate issued by PW-2, a qualified Orthopaedic Surgeon, has been marked without objection. The insurer has not chosen to

examine any medical expert in rebuttal. The injuries sustained by the appellant are supported by CT scan and X-ray reports at Exs.P13 and P14. Merely because PW-2 is not a Neuro Surgeon, his evidence cannot be discarded in the absence of contra medical evidence.

8. The evidence on record clearly establishes that the appellant sustained serious head injuries resulting in permanent physical impairment. PW-2 has assessed the permanent disability at 25% to the whole body. In the absence of any contrary medical opinion, this Court finds no reason to disbelieve the assessment made under Ex.P12.

9. The Hon'ble Supreme Court in **Master Mallikarjun v. Divisional Manager, National Insurance Co. Ltd.** has laid down that in cases of children suffering permanent disability, where the disability is between 10% and 30% to the whole body, compensation of Rs.3,00,000/- shall be awarded towards permanent disability, in addition to actual medical expenses and other conventional heads.

10. In the present case, the appellant being a minor child aged about 8 years and having suffered 25% permanent disability to the whole body, the ratio laid down in **Master**

**Mallikarjun** squarely applies. The contention of the respondent-insurance company that the said judgment is not applicable is rejected.

11. The Tribunal has awarded only Rs.1,00,000/- towards permanent disability by reducing the disability to 5-6% on assumption, which is contrary to settled legal principles. Therefore, the appellant is entitled to **Rs.3,00,000/-** towards permanent disability instead of Rs.1,00,000/- awarded by the Tribunal.

12. The compensation awarded by the Tribunal under other heads namely pain and suffering, medical and incidental expenses and loss of income and sufferings of parents is found to be just and reasonable and does not warrant interference.

13. Accordingly, the compensation is re-determined as under:

|                                          |                        |
|------------------------------------------|------------------------|
| Pain and suffering                       | – Rs. 30,000/-         |
| Medical and incidental expenses          | – Rs. 25,000/-         |
| Loss of income and sufferings of parents | – Rs. 25,000/-         |
| Permanent disability                     | – Rs.3,00,000/-        |
| <b>Total</b>                             | <b>- Rs.3,80,000/-</b> |

14. Thus, the appellant is entitled to total compensation of **Rs.3,80,000/-** as against Rs.1,80,000/- awarded by the Tribunal, resulting in an enhancement of **Rs.2,00,000/-**.

15. The rate of interest at 9% per annum awarded by the Tribunal from the date of judgment till realization is affirmed. The respondent-insurance company shall deposit the enhanced compensation amount with accrued interest within six weeks from the date of receipt of a certified copy of this judgment.

16. The directions issued by the Tribunal regarding deposit of compensation amount in fixed deposit till the appellant attains majority and permitting the guardian to withdraw accrued interest for maintenance shall remain unaltered.

17. For the aforesaid reasons, this Court proceeds to pass the following:

#### ORDER

- i. The appeal is ***allowed-in-part***.
- ii. The claimant is entitled to a total compensation of **Rs.3,80,000/-** as against Rs.1,80,000/- awarded by the Tribunal. The claimant is entitled for enhanced compensation of Rs.2,00,000/- along with interest at

the rate of 9% p.a., from the date of petition till realization.

- iii. The Insurance Company is directed to deposit the compensation amount along with interest within a period of eight weeks from the date of receipt of copy of this judgment.
- iv. Registry is directed to return the Trial Court Records to the Tribunal, along with certified copy of the order passed by this Court forthwith.
- v. To the aforesaid extent, the judgment of the Claims Tribunal is modified.

**Sd/-  
(DR. K.MANMADHA RAO)  
JUDGE**

KGK  
CT:VP