



IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 25TH DAY OF MARCH, 2026

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

MISCELLANEOUS FIRST APPEAL NO.101408/2015 (MV-I)
C/W
MISCELLANEOUS FIRST APPEAL NO.101409/2015 (MV-I)

IN MFA NO. 101408/2015 :

BETWEEN:

GUDDAPPA S/O SANNAPPA PADIYANNANAVAR,
AGE: 54 YEARS, OCC: AGRICULTURE, NOW NIL,
R/O HUNASIKATTI ROAD, SIDDAPUR TANDA,
RANEBENNUR, TQ: RANEBENNUR, DIST: HAVERI.

...APPELLANT

(BY SRI GS HULMANI, ADVOCATE)

AND:

1. BASAVANNEPPA H. NEKAR,
AGE: MAJOR, OCC: BUSINESS,
R/O CHIKKURAVATTI,
TQ: RANEBENNUR, DIST: HAVERI.
2. THE DIVISIONAL MANAGER,
NATIONAL INSURANCE COMPANY LTD.,
SUJATHA COMPLEX, PB ROAD, HUBLI.

...RESPONDENTS

(BY SRI RS ARANI, ADVOCATE FOR R2;
NOTICE TO R1 IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT 1988, PRAYING TO CALL FOR RECORDS FROM THE PRL. SENIOR CIVIL JUDGE AND A.M.A.C.T. RANEBENNUR AND MODIFY THE JUDGMENT AND AWARD PASSED BY THE LEARNED JUDGE IN MVC NO.810/2012 DATED 14TH NOVEMBER 2014 BY SADDLING THE LIABILITY TO PAY COMPENSATION ON THE RESP.NO.2/INSURANCE CO. AND ETC.



IN MFA NO.101409/2015 :

BETWEEN:

RATNAMMA W/O CHIKKAMADA
DAMADOGANNANAVAR @ KOTNALLI,
AGE: 43 YEARS, OCC: AGRICULTURE, NOW NIL,
R/O HUNASIKATTI ROAD, SIDDAPUR TANDA,
RANEBENNUR, TQ: RANEBENNUR, DIST: HAVERI.

...APPELLANT

(BY SRI GS HULMANI, ADVOCATE)

AND:

1. BASAVANNEPPA H. NEKAR,
AGE: MAJOR, OCC: BUSINESS,
R/O CHIKKURAVATTI,
TQ: RANEBENNUR, DIST: HAVERI.
2. THE DIVISIONAL MANAGER,
NATIONAL INSU. CO. LTD.,
SUJATHA COMPLEX, PB ROAD, HUBLI.

...RESPONDENTS

(BY SRI RS ARANI, ADVOCATE FOR R2;
NOTICE TO R1 IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO CALL FOR RECORDS FROM THE PRL. SENIOR CIVIL JUDGE AND A.M.A.C.T. RANEBENNUR AND MODIFY THE JUDGMENT AND AWARD PASSED BY THE LEARNED JUDGE IN MVC NO.811/2012 DATED 14TH NOVEMBER 2014 BY SADDLING THE LIABILITY TO PAY COMPENSATION ON THE RESP.NO.2/INSURANCE CO. AND 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 common judgment and award dated 14.11.2014 passed by Principal Senior Civil Judge and Additional MACT, Ranebennur¹ in MVC no.810/2012 and MVC no.811/2012, these appeals are filed.

2. Sri GS Hulmani, learned counsel for appellants submitted, appeals were by claimants for enhancement as well as challenging dismissal of claim petitions against insurer. It was submitted, at about 10:00 a.m., on 01.10.2011, when claimants Gundappa S. Padiyannanavar and Ratnamma C. Damadogannanavar were passengers in Maxi Cab no.KA.24/3743 proceeding on PB road near Kadaramandalagi cross, driver drove it in rash and negligent manner and dashed against car no.KA.02/MF-5603. In accident, both claimants sustained grievous injuries. Despite treatment at Government Hospital, Ranebennur, Dr.Ullal Clinic, Ranebennur and Kasturbha Hospital, Manipal, they did not recover fully and sustained loss of earning capacity. Therefore, they filed separate claim petitions under Section 166 of Motor Vehicles

¹ For short, 'Tribunal'



NC: 2026:KHC-D:4691
MFA No. 101408 of 2015
C/W MFA No. 101409 of 2015

Act, 1988 ('MV Act' for short) against owner and insurer of Maxi Cab. Same were clubbed.

3. On appearance, claim petitions were opposed on all counts. Based on pleadings Tribunal framed issues and recorded evidence.

4. Claimants examined themselves and Dr.Ullal as PWs.1 to 3 and got marked Exs.P.1 to 25. Respondents examined 1 witness as RW.1 and got marked Ex.R.1.

5. On consideration, Tribunal held accident occurred due to rash and negligent driving by driver of insured vehicle and claimants were entitled for compensation as follows:

MVC no.810/2012 :

Sl. No.	Particulars	Amount in Rs.
1	Pain and Suffering	30,000/-
2	Medical Expenses, Food, diet Nourishment & Attendant Charges.	12,000/-
3	Loss of income during laid up period	10,000/-
4	Loss of future income on account of permanent physical Disability.	59,400/-
5	Loss of Amenities and enjoyment of life	10,000/-
	Total	1,21,400/-



MVC no.811/2012 :

Sl. No.	Particulars	Amount in Rs.
1	For Pain and Suffering	30,000/-
2	Medical Expenses, Food, diet Nourishment & Attendant Charges.	13,000/-
3	Loss of income during laid up period	7,000/-
4	Loss of future income on account of permanent physical disability	54,000/-
5	Loss of Amenities and Enjoyment of Life	10,000/-
	Total	1,14,000/-

6. Dissatisfied with award, appeals were filed.

7. In MFA no.101408/2015 was against award in MVC no.810/2012, it was submitted, claimant Gundappa was 51 years of age and earning Rs.10,000/- per month from agriculture. Without justification, Tribunal considered monthly income as Rs.4,500/-. And though he sustained fracture of left scapula, fracture lateral condyle of right tibia and fracture of L4 vertebra, assessed by PW3 to have resulted in 53% physical disability, Tribunal assessed only 10% as functional disability, which was grossly inadequate. It was submitted even compensation awarded towards 'pain and suffering', 'medical and other incidental expenses', 'loss of income during laid up



period' and 'loss of amenities' etc., and prayed for allowing appeal

8. In MFA no.101409/2015 was against award in MVC no.811/2012, it was submitted, claimant Ratnamma was 40 years of age and earning Rs.10,000/- per month from agriculture. Without justification, Tribunal considered monthly income as Rs.4,500/-. And though she sustained fracture of left clavicle bone, fractures of 4th, 5th and 6th ribs on left side, as well as fracture of L5 vertebra, assessed by PW3 to have resulted in 60% physical disability, Tribunal assessed only 10% as functional disability, which was grossly inadequate. It was submitted even compensation awarded towards 'pain and suffering', 'medical and other incidental expenses', 'loss of income during laid up period' and 'loss of amenities' etc., and prayed for allowing appeal.

9. On liability, it was submitted though Tribunal dismissed claim petition against insurer, in claim petitions filed by inmates of Car, Tribunal had held insurer of Maxi Cab liable to pay compensation and insurer had accepted said award and therefore could not dispute liability in these claims. Copies of



insurance policy and common judgment in MVCs no.129/2012 c/w 130 to 133/2012 disposed of on 20.03.2013 were produced along with memo. In view of same, learned counsel prayed for reversing finding of Tribunal on liability.

10. On other hand, Sri RS Arani, learned counsel for insurer on instructions admitted to issuance of insurance policy, covering risk of offending vehicle and acceptance of award passed in connected claim petitions and fairly conceded to challenge on liability. However, on quantum, he submitted Tribunal had awarded just compensation under various heads which did not call for enhancement.

11. Heard learned counsel, perused impugned judgment, award and record.

12. From above, points that arise for consideration are:

- i. Whether dismissal of claim petitions against insurer called for interference?*
- ii. Whether claimants are entitled for enhancement of compensation?*

13. **Point no.(i)** :- In view of production of award in connected claim petitions and admission about liability, there



would be no need for discussion on same. Point no.1 is answered in affirmative.

14. **Point no.(ii) in MFA no.101408/2015** : Though claimant stated that he was 51 years of age working as agriculturist earning Rs.10,000/- per month, same was not substantiated. In absence, Tribunal assessed it notionally at Rs.4,500/-. Since, notional income for year 2011 is Rs.6,000/-, same has to be considered. As per Medical records, claimant sustained fracture of left scapula, lateral condyle of left tibia and L4 vertebra assessed by PW.3 Dr.-Ullal to have resulted in 53% disability. Tribunal assessed functional disability at 10%. Considering fact that, claimant sustained fracture of back bone, apart from other fractures, assessment appears in adequate and enhanced to 15%. Multiplier applicable would be '11' . Therefore, compensation towards 'future loss of income' would be :

$$\text{Rs.6,000/-} \times 15\% \times 12 \times 11 = \text{Rs.}\underline{\underline{1,18,800/-}}$$

15. Noting that claimant sustained three fractures award of Rs.30,000/- towards 'pain and suffering' would be grossly inadequate and therefore enhanced to **Rs.60,000/-**.



Considering Medical Bills produced and duration of inpatient treatment taken, tribunal awarded **Rs.12,000/-** towards 'Medical and incidental expenses', which is affirmed.

16. Normally fractures take three months to heal. Considering said period as layoff, instead of Rs.10,000/-, claimant is awarded **Rs.18,000/-** towards 'loss of income during laid up period'. Considering extent of disability sustained award of Rs.10,000/- towards 'loss of amenities' would be inadequate and therefore enhanced to **Rs.30,000/-**. Thus, claimant would be entitled for total compensation as follows:

Sl. No.	Particulars	Amount in Rs.
1	Pain and Suffering	60,000/-
2	Medical and Incidental Expenses	12,000/-
3	Loss of income during laid up period	18,000/-
4	Future Loss of Income	1,18,800/-
5	Loss of Amenities	30,000/-
	Total	2,38,800/-

Point no.2 is answered partly in affirmative, accordingly.

17. **Point no.(ii) in MFA no.101409/2015** : Though claimant stated that she was 40 years of age working as agriculturist earning Rs.10,000/- per month, same was not substantiated. In absence, Tribunal assessed it notionally at



Rs.4,500/-. Since, notional income for year 2011 is Rs.6,000/-, same has to be considered. As per Medical records, claimant sustained fracture of left clavicle bone, 4th, 5th and 6th ribs on left side and L5 vertebra assessed by PW.3 Dr.Ullal to have resulted in 60% disability. Tribunal assessed functional disability at 10%. Considering fact that, claimant sustained fracture of back bone, apart from other fractures, assessment appears in adequate and enhanced to 15%. Multiplier applicable would be '15'. Therefore, compensation towards 'future loss of income' would be :

$$\text{Rs.6,000/-} \times 15\% \times 12 \times 15 = \text{Rs.}\underline{\underline{1,62,000/-}}$$

18. Noting that claimant sustained three fractures award of Rs.30,000/- towards 'pain and suffering' would be grossly inadequate and therefore enhanced to **Rs.60,000/-**. Considering Medical Bills produced and duration of inpatient treatment taken, tribunal awarded **Rs.13,000/-** towards 'Medical and incidental expenses', which is affirmed.

19. Normally fractures take three months to heal. Considering said period as layoff, instead of Rs.7,000/-, claimant is awarded **Rs.18,000/-** towards 'loss of income



during laid up period'. Considering extent of disability sustained award of Rs.10,000/- towards 'loss of amenities' would be inadequate and therefore enhanced to **Rs.30,000/-**. Thus, claimant would be entitled for total compensation as follows:

Sl. No.	Particulars	Amount in Rs.
1	Pain and Suffering	60,000/-
2	Medical and Incidental Expenses	13,000/-
3	Loss of income during laid up period	18,000/-
4	Future Loss of Income	1,62,000/-
5	Loss of Amenities	30,000/-
	Total	2,83,000/-

Point no.2 is answered partly in affirmative, accordingly.

20. In view of above, following

ORDER

- i. MFA no.101408/2015 is allowed in part, judgment and award dated 14.11.2014 passed by Principal Senior Civil Judge and Additional MACT, Ranebennur in MVC no.810/2012 is modified, enhancing compensation from Rs.1,21,400/- to **Rs.2,38,800/- with interest at 7% per annum** from date of petition till deposit.
- ii. MFA no.101409/2015 is allowed in part, judgment and award dated 14.11.2014 passed



NC: 2026:KHC-D:4691
MFA No. 101408 of 2015
C/W MFA No. 101409 of 2015

by Principal Senior Civil Judge and Additional MACT, Ranebennur in MVC no.811/2012 is modified, enhancing compensation from Rs.1,14,000/- to **Rs.2,83,000/- with interest at 7% per annum** from date of petition till deposit.

- iii. In both Appeals, Respondent no.2 - insurer is held liable to pay entire compensation and is directed to deposit same before tribunal within six weeks.
- iv. On deposit, entire amount is ordered to be released to claimant.

Sd/-
(RAVI V.HOSMANI)
JUDGE

EM, CT:VP
LIST NO.: 1 SL NO.: 34