IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 27TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE M.I.ARUN

AND

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

MFA NO. 102869 OF 2024 (MV-I)
C/W
MFA NO.102889 OF 2024 (MV-I)

IN MFA NO.102869 OF 2024:

BETWEEN:

THE BRANCH MANAGER,
THE RELIANCE GENERAL INSURANCE CO. LTD.,
CTS NO.472-474 V.A. KALABURGI SQUARE,
DESAI CROSS, DESHPANDE NAGAR,
HUBBALLI-580 029, DIST. DHARWAD,
R/BY ITS AUTHORIZED SIGNATORY,
INSURER OF CAR BEARING NO.MH-02/DG-4356,
POLICY NO.110522223470116661
VALID FROM 19-11-2022 TO 18-11-2023.

... APPELLANT

(BY SRI G.N. RAICHUR, ADVOCATE FOR
SMT. ANUSHA S. DESAI, ADVOCATE APPEARED THROUGH VC)

AND:

1. SRI SUNIL S/O. MALLIKARJUN PATIL,
AGE. 22 YEARS,
OCC. AGRICULTURE AND MILK VENDING,
NOW NIL, R/O. HOSUR, TQ. SAVADATTI-591 126,
NOW RESIDING AT CHANNAMMA NAGAR,
BAILHONGAL-591 102, TQ. BAILHONGAL,
DIST. BELAGAVI.

2. SHRI DEEPAK S/O. TRILOKNATH MISHRA,
AGE. MAJOR, OCC. BUSINESS,
R/O. R.NO.3 KHODA BHAGAT CHAWL,

NEAR HARINIVAS BUILDING,
MUMBAI STATE MAHARASHTRA-400 068,
(OWNER OF CAR BEARING NO.MH-02/DG-4356).

… RESPONDENTS

(BY SRI HANAMANT R. LATUR, ADVOCATE FOR C/R1;
SERVICE OF NOTICE TO R2 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO CALL FOR THE RECORDS AND HEAR THE PARTIES AND MODIFY THE JUDGMENT AND AWARD DATED 26.04.2024 PASSED IN M.V.C. NO.2304/2023 ON THE FILE OF THE SENIOR CIVIL JUDGE AND ADDL. MACT, BAILHONGAL BY EXONERATING THE APPELLANT INSURANCE COMPANY FROM LIABILITY AND REDUCING THE COMPENSATION BY ACCEPTING THE GROUNDS MADE OUT IN THE GROUNDS OF APPEAL BY ALLOWING THIS APPEAL WITH COST IN THE ENDS OF JUSTICE AND EQUITY AND ETC.

IN MFA NO.102889 OF 2024:

BETWEEN:

SHRI SUNIL S/O. MALLIKARJUN PATIL,
AGE. 22 YEARS,
OCC. AGRICULTURE AND MILK VENDING, NOW NIL,
R/O. HOSUR, TQ. SAVADATTI,
NOW RESIDING AT CHANNAMMA NAGAR,
BAILHONGAL, TQ. BAILHONGAL,
DIST. BELAGAVI, PIN-591 102.

… APPELLANT

(BY SRI HANAMANT R. LATUR, ADVOCATE)

AND:

1. SHRI DEEPAK S/O. TRILOKNATH MISHRA,
AGE. 50 YEARS, OCC. BUSINESS,
R/O. R.NO.3, KHODA BHAGAT CHAWL,
NEAR HARINIVAS BUILDING, MUMBAI,

STATE: MAHARASHTRA, PIN-400 068.

2. THE BRANCH MANAGER,
RELIANCE GENERAL INSURANCE COMPANY LTD.,
CTS 472-474, V.A. KALABURGI SQUARE,
DESAI CROSS, DESHPANDE NAGAR,
HUBBALLI, DIST. DHARWAD, PIN-580 029.

... RESPONDENTS

(BY SRI G.N. RAICHUR, ADVOCATE FOR R2 IS APPEARED THROUGH VC;
SERVICE OF NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO ENHANCE THE COMPENSATION BY MODIFYING THE JUDGMENT DATED 26.04.2024 PASSED IN M.V.C. NO.2304/2023 ON THE FILE OF THE SENIOR CIVIL JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BAILHONGAL, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THESE APPEALS ARE COMING ON PRONOUNCEMENT AND THE SAME HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 11.02.2026, THIS DAY, **B. MURALIDHARA PAI J.,** DELIVERED THE FOLLOWING:

CORAM: THE HON’BLE MR. JUSTICE M.I.ARUN
AND
THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

CAV JUDGMENT

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

These appeals - MFA No.102869/2024 by Reliance General Insurance Company Limited, challenging contributory negligence assessment and compensation quantum and MFA No.102889/2024 by the Claimant, seeking enhancement, arise from the judgment and award dated 26.04.2024 passed in MVC No.2304/2023 by learned Senior Civil Judge and Additional MACT, Bailhongal.

2. The Claimant Sri Sunil, instituted MVC No. 2304/2023 before the Tribunal under Section 166 of the Motor Vehicles Act, 1988, seeking compensation from the owner and insurer of the offending car bearing registration No. MH-02-DG-4356. He alleged that on 29.08.2023 at approximately 8:00 p.m., while proceeding on his two-wheeler bearing No.KA-22-HH-0541 alongside a friend from Hosur Village towards Bailhongal, the driver of the said car approached from the Bailhongal direction in a rash and negligent manner, veered car onto the wrong side of Munavali - Bailhongal Road near Kiran Petrol Pump and dashed against the claimant's motorcycle. This

actionable negligence on the part of the car driver resulted in grievous injuries to the claimant, necessitating extensive medical intervention.

3. Upon service of notice, the owner and insurer entered appearance through counsel and filed written objections, denying their liability and attributing fault to the claimant.

4. The Tribunal, after evaluating the oral and documentary evidence placed on record, held the car driver solely responsible for the accident, attributing 100% fault to him for violating road safety norms and consequently, allowed the claim petition in part, awarding a total compensation of Rs. 42,34,224/- together with interest at 6% per annum from the date of petition till realization.

5. Sri. G. N. Raichur, learned Counsel for the Insurer (appellant), vehemently contended that the factual matrix of the accident unmistakably reveal contributory negligence by the claimant, who rode the two-wheeler sans valid driving license and helmet and urged apportionment of fault to the claimant while adjudicating the question of negligence, asserting the Tribunal erred in fixing 100% liability on the car driver. He

further assailed the Tribunal's assessment of the claimant's notional income at Rs.30,000/- per month as wholly conjectural and without corroborative proof. Additionally, he contended that holding of 34% functional disability in claimant as inflated one and unsupported by expert evidence. Hence, he prayed for drastic reduction in quantum across heads and sought modification of the impugned judgment and award.

6. Per contra, Sri Hanamanth R. Latur, learned Counsel for the claimant, strenuously argued that the awarded sum of Rs.42,34,224/- is a meager compensation compared to the claimant's pecuniary losses, warranting its enhancement. He advocated adoption of Rs.40,000/- monthly income and to grant the compensation as originally claimed.

7. On hearing the rival contentions canvassed by learned Counsel for the parties and perusing the impugned judgment, award, and materials on record, the following points arise for our consideration:

i. Whether the claimant has contributed for the accident?
ii. Whether the compensation awarded by the Tribunal is just and proper?

<u>Point No.(i)</u> :

8. The case of the claimant is that on 29.08.2023 at 8:00 p.m., while his en route from Hosur Village to Bailhongal on Activa Scooty bearing No. KA-22-HH-0541 with a pillion rider, near Kiran Petrol Pump on Munavalli-Bailhongal Road, the car bearing No. MH-02-DG-4356 emerged rashly from Bailhongal side and collided with his vehicle, result of which he sustained grievous injuries. To substantiate rash and negligent driving by the car driver, the claimant testified and tendered key police documents, notably the charge-sheet.

9. The charge-sheet (Ex.P8) unequivocally indicts the car driver for the offences under Sections 279 (rash driving) and 338 (causing grievous hurt by negligence) of IPC. This document fortifies primary fault on the car driver. Though the insurer pleaded contributory negligence on the part of the claimant, they adduced no evidence either by examining the car driver or by producing any other material which would probabilise their contention.

10. The police papers go to show that the claimant was riding the two-wheeler without holding a driving license and that

he was not wearing a helmet, at the time of the accident. Yet, settled law holds such statutory breaches insufficient per se for negligence inference [**Sudhir Kumar Rana Vs Surinder Singh and Others**, reported in **2008 Kant. MAC 541 (SC)**]. Absent independent proof of contribution on the side of the claimant, this Court does not find any force in the insurer's bald plea. Hence, Point No.(i) stands answered in the negative.

11. is the definite case of the claimant that on 29.08.2023 at about 08.00 p.m., when he was proceeding from Hosur village to Bailhongal along with his friend on Activa scooty, bearing No.KA.22/HH-0541, near Kiran Petrol pump on Munavalli -Bailhongal road, a Car bearing No.MH.02/DG-4356 came from the side of Bailhongal in rash and negligent manner and dashed against his two wheeler, as a result of which, he sustained grievous injuries. In order to prove the question of negligence on the part of the rider of Car driver, the claimant has adduced his evidence as PW.1 and got marked relevant police papers, which includes certified copy of the charge sheet.

12. The charge sheet produced at Ex.P8 goes to show that the judicial police have laid the charge sheet against the driver of the Car for the offence under Section 279 and 338 of

IPC and against the claimant for the offences under Section 3 R/w Section 181 and Section 129, R/w Section 177 of MV Act. Thus, the contents of the charge sheet make it clear that on investigation of the case, the jurisdictional police found that the driver of the Car was solely responsible for the accident.

13. The case papers reveal that though the insurer raised a contention about contributory negligence on the part of the claimant, they have not chosen to adduce any evidence to substantiate their contention. They have neither examined the driver of the Car nor adduced any other evidence to rebut the presumption that would arise from the prosecution initiated against the driver of the Car in connection with the accident. No doubt, the materials on record indicate that the client was riding a two wheeler without holding a driving license. It is well settled that mere driving of a vehicle without driving license is not sufficient to draw any presumption regarding his contribution for the accident. The said aspect need to be proved independently. In the absence of any material placed on record by the respondents to prove the negligence or contributory negligence on the part of the client, this Court does not find any reason to interfere with the finding recorded by the Tribunal Court, holding

him responsible for the accident. Hence, point No.1 is answered in the negative.

<u>Point No.(ii)</u> :

14. The Tribunal has awarded compensation of Rs.42,34,224/- to the claimant under the following heads:

Sl.No.	Heads	Amount (Rs.)
1	Pain and suffering	75,000.00
2	Medical expenses	16,38,024.00
3	Future Medical expenses	80,000.00
4	Towards diet, food nourishment, attendant and conveyance charges	58,000.00
5	Towards loss of future earning capacity due to permanent disability	22,03,200.00
6	Loss of income during laid up period	90,000.00
7	Towards loss of amenities and enjoyment in life	90,000.00
	Total :	**42,34,224.00**

15. Both the claimant and the insurer have challenged the tribunal's assessment of loss of future income. The claimant asserts that the tribunal erred by not adopting his claimed monthly income of Rs.40,000/-, while the insurer contends that

the tribunal's adoption of Rs.30,000/- lacks evidentiary foundation.

16. It is the case of the claimant that he was earning Rs.40,000/- per month from agriculture and milk vending. The tribunal, relying on PW-3's deposition and documents produced at Ex.P14 and Ex.P15, fixed his income from milk vending at Rs.30,000/-.

17. Sri Shankar Madiwalappa Kalli, in his deposition as PW-3 claimed that he is the Secretary of Hosur Milk Producers Co-operative Society and testified that the claimant, a member of their society vide Membership No.202, was giving 10 liters of milk each, twice a day in morning and evening and thereby getting a sum of Rs.35,000/- monthly. However, meticulous scrutiny reveals fatal infirmities in this evidence, rendering it unreliable and unworthy of credence.

18. The passbooks at Ex.P15 purport to record of daily milk supplied from January to August 2023. A plain inspection of these passbooks discloses uniform handwriting, identical ink/pen usage across all entries, and pristine condition devoid of natural wear, tears, bends, or mutilation. Thus, it seems these

documents are not the records prepared and maintained in regular course of business.

19. Coming to merits of the testimony of PW-3, despite his claim about the membership of the claimant in Milk Producers' Co-op. Society, no membership register extract, application, or fee receipt was produced before the Tribunal. This omission undermines the foundational premise.

20. As per the version of PW-3, the payments were being made to the claimant on monthly basis. Yet no bank statements, receipts, or society ledgers were produced before the Tribunal to corroborate any remittance, despite the alleged monthly payment being around Rs.35,000/-.

21. PW-3 stated that the claimant was giving milk of 7-8 buffaloes to the society, implying substantial investment. However, no evidence such as purchase bills, veterinary records, or ownership documents, are produced to substantiate this contention. On the other hand, PW-3 claimed abrupt cessation of supply of milk by the claimant from the date of accident, which defies logic and lacks a proper explanation.

22. The certificate produced at Ex.P14 asserts 5 years' membership of the claimant in the society, implying enrollment around 2018. Whereas, as per the copy of Aadhaar Card of the claimant (Aadhaar No.4323 0808 5230) available in the record, he was born on 2.7.2003. Further, as the entries in the medical records, the claimant was aged 20 years at the time of the accident. These materials on record indicate that the claimant was hardly 15 years old during the year 2018, which exposes the certificate's unreliability.

23. These gaping lacunae, coupled with the self-serving nature of the evidence, compel rejection of the claimant's income plea. The tribunal's acceptance without adversarial testing contravenes settled law requiring "cogent and acceptable" proof of income. Absent reliable evidence, the income of the claimant needs to be assumed notionally as Rs.15,250/- per month, based on the chart of KSLSA for settlement of cases before Lok-Adalat, for unskilled labour (i.e., Rs.14,750/- for year 2022 plus average enhancement of Rs.500/- per year).

24. The other contentious issue in the case is in respect of percentage of permanent disability suffered by the claimant on account of the injuries sustained in the accident. The Tribunal

has taken 34% as functional disability suffered by the claimant to his whole body. Whereas, the claimant has contended that the said assessment by the Tribunal is not correct. In this regard, the claimant has relied on the evidence adduced before the Tribunal through PW-2, PW-4 and PW-5.

25. PW-2, Dr. Tousif A. Sangolli has opined that the claimant has got 16% permanent disability. The statements of PW-2 gives an impression that he has stated about percentage of disability after assessing the fractures sustained by the claimant on right maxilla, mandible and right orbit and functional disabilities on account of such injuries i.e., reduced mouth opening, difficulty in speech, difficulty in chewing food and mal-occlusion.

26. PW-4, Dr. Ravindra Kumar has stated that the claimant has got permanent physical disability amounting to 60%. He has given the said assessment on the ground that the claimant is having inability of doing routine work and needs support of others to do routine work.

27. PW-5, Dr. Basavaraj Fadigouda Patil has stated that the claimant has got permanent physical disability amounting to

45% to his right upper limb. He has given such assessment based on functional disabilities such as inability to do routine work, inability to lift right hand, inability to lift weight and need of an helper to the claimant.

28. The materials on record go to show that the claimant had suffered fracture of right humorous and other injuries on head, chest and abdomen. Undisputedly, the claimant was treated with implants for fracture of humorous and he was treated conservatively for other injuries. It is also forthcoming from the record that the claimant has undergone treatment as an inpatient for about 2 months i.e., from 29.08.2023 to 26.09.2023 and 28.09.2023 to 20.10.2023.

29. The document marked at Ex.P13 goes to show that the claimant has undergone further treatment as an inpatient from 22.11.2023 to 27.11.2023. However, Ex.P13 makes it clear that the said treatment was for Empyema, which is a medical condition characterized by the accumulation of infected, pus filled fluid in the pleural space i.e., the thin cavity between the lungs and the chest. As per medical jurisprudence, such a condition results from complications of pneumonia, chest surgery or trauma. Thus, it gives an impression that this treatment of the

claimant was not directly related to the injuries sustained in the accident.

30. Added to the above, admittedly PW-2 and PW-4 are not the doctors, who treated the claimant for the injuries sustained in the accident. The claimant approached them only for the purpose of assessment of his disability. Further, PW-2 and PW-4 have not stated anything about the functional disability suffered by the claimant on account of his alleged permanent disabilities and its direct bearing on his future earning capacity.

31. As stated earlier, PW-5 assessed 45% permanent disability to the right upper limb. As such, it would be proper to take 1/4th of it as percentage of permanent disability to whole body. Aggregating the assessments given by PW-2, PW-4 and PW-5, it is opined that a holistic functional disability to whole body may be taken as about 30%.

32. The Tribunal has considered the age of the claimant as 21 years as on the date of accident and applied multiplier of '18' for the purpose of computing Loss of future income. This Court does not find any error committed by the Tribunal in this

regard. In the above circumstances, the loss of income works out to Rs.9,88,200/- (i.e., Rs.15,250/- x 12 x 18 x 30%).

33. The Tribunal awarded a sum of Rs.90,000/- to the claimant under the head of loss of income during laid up period, based on its conclusion that he was earning a sum of Rs.30,000/- per month from milk vending. On re-appreciation of the materials on record, this Court has assessed the income of the claimant notionally as Rs.15,250/- per month. Having regard to nature of the injuries sustained by the claimant and probable period required for healing up and recovery, it would be proper to award a sum of Rs.91,500/- (i.e., Rs.15,250/- x 6) towards loss of income during the laid up period.

34. The Tribunal, relying on the documents produced at Ex.P16, awarded a sum of Rs.16,38,024/- to the claimant under the head of medical expenses. This Court does not find any valid reason to interfere with it.

35. The Tribunal awarded a sum of Rs.75,000/- under the head of pain and sufferings, Rs.80,000/- under future medical expenses, Rs.58,000/- towards diet and incidental charges and Rs.90,000/- towards loss of amenities. Having

regard to the nature of injuries sustained by the claimant and period of treatment, this Court holds that the compensation awarded by the Tribunal under these heads is just and proper.

36. For the foregoing reasons, this Court holds that the claimant is entitled for total compensation of **Rs.30,20,724/-** under the following heads:

Sl.No.	Heads	Amount (Rs.)
1	Pain and suffering	75,000.00
2	Medical expenses	16,38,024.00
3	Future Medical expenses	80,000.00
4	Towards diet, food nourishment, attendant and conveyance charges	58,000.00
5	Towards loss of future earning capacity due to permanent disability	9,88,200.00
6	Loss of income during laid up period	91,500.00
7	Towards loss of amenities and enjoyment in life	90,000.00
	Total :	**30,20,724.00**

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

ORDER

i) MFA No.102869 of 2024 filed by the Insurer is **allowed in part.**

ii) MFA No.102889 of 2024 filed by the Claimant is **dismissed.**

iii) The claimant is entitled for compensation of Rs.30,20,724/- in place of Rs.42,34,224/- awarded by the Tribunal together with interest thereon @ 6% per annum from the date of petition till its realization. Accordingly, the impugned judgment and award is modified to this extent.

iv) Respondent No.2 is directed to deposit entire compensation amount (minus the amount already paid/deposited) before the Tribunal within a period of sixty days from this day.

v) The Registry is directed to transmit the amount in deposit, if any, to the Tribunal along with trial Court record, forthwith.

vi) Draw a modified award accordingly.

Sd/-
(M.I.ARUN)
JUDGE

Sd/-
(B. MURALIDHARA PAI)
JUDGE

Vb, Ckk, RKM