

**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. 103971 OF 2016 (MV-I)

C/W

MFA NO.100230 OF 2017 (MV-I)

IN MFA NO.103971 OF 2016:

BETWEEN:

SHRI POMANNA SAKHARAM YEDAGE,
AGE: 31 YEARS, OCC: MASON, NOW NIL,
R/O: VAIJAGAON, SHINGARGAON,
TQ: JOIDA, DIST: KARWAR-581 186.

... APPELLANT

(BY SRI MALATESH HIPPALI, ADVOCATE FOR
SRI HARISH S. MAIGUR AND SRI D.S. YALAMALI,
ADVOCATES)

AND:

THE MANAGING DIRECTOR,
NWKRTC CENTRAL OFFICES,
GOKUL ROAD, HUBBALLI,
REPRESENTED BY ITS
DIVISIONAL CONTROLLER,
NWKRTC CBT, BELAGAVI-590 001.

... RESPONDENT

(BY SRI S.C. BHUTI, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, MODIFY THE JUDGMENT AND AWARD DATED 17.10.2016 PASSED IN M.V.C. NO.2666/2015 ON THE FILE OF THE XI ADDITIONAL DISTRICT AND SESSIONS JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BELAGAVI, BY ALLOWING THIS APPEAL WITH COST, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.



IN MFA NO.100230 OF 2017:
BETWEEN:

THE MANAGING DIRECTOR,
N.W.K.R.T.C., CENTRAL OFFICES,
GOKUL ROAD, HUBBALLI,
REPRESENTED BY ITS
DIVISIONAL CONTROLLER,
NWKRTC CBT, BELAGAVI,

(OWNER AND INSURER OF NWKRTC BUS
BEARING NO.KA-42/F-1236)
REPRESENTED BY CHIEF LAW OFFICER,
NWKRTC, CENTRAL OFFICE, HUBBALLI-580 020.

... APPELLANT

(BY SRI S.C. BHUTI, ADVOCATE)

AND:

SHRI POMANNA SAKHARAM YEDAGE,
AGE: 31 YEARS, OCC: MASON (NOW NIL),
R/O: VAIJAGAON, SHINGARGAON,
TQ: JOIDA, DIST: KARWAR-581 129.

... RESPONDENT

(BY SRI MALATESH HIPPALI, ADVOCATE FOR
SRI HARISH S. MAIGUR, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, SET ASIDE THE JUDGMENT AND AWARD DATED 17.10.2016 PASSED IN M.V.C. NO.2666/2015 ON THE FILE OF THE XI ADDITIONAL DISTRICT AND SESSIONS JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, AT: BELAGAVI, 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 04.02.2026, 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)

1. The Claimant - Sri Pomanna Sakharam Yedage and the Respondent - the Managing Director, NWKRTC, Hubballi, have filed the appeals in MFA Nos. 103971/2016 by Claimant and 100230/2017 by Respondent, challenging the judgment and award dated 17.10.2016 in MVC No. 2666/2015 on the file of learned XI Additional District and Sessions Judge and Additional MACT, Belagavi.

2. MVC No.2666/2015 is a petition filed under Section 166 of the Motor Vehicles Act, 1988, wherein the Claimant sought compensation of Rs.25,00,000/- from the Respondent, for the injuries sustained by him in a road traffic accident on 12.11.2015 near Anmod Ghat, Mollem. He alleged actionable negligence by the driver of the bus bearing No. KA-42-F-1236 belonging to the Respondent. The petition was contested by the Respondent. The Tribunal allowed the petition in part, awarding compensation of Rs.8,89,200/- to the Claimant together with interest thereon at the rate of 9% per annum from the date of petition till its realization.

3. In MFA No.103971/2016, the Claimant seeks enhancement on the ground of inadequacy of award. He submits that the Tribunal erred in properly assessing his total earning capacity and undervalued the expenses incurred such as medical expenses, food and incidental charges. He further submits that the compensation awarded under loss of income during the treatment and loss of amenities is on lower side. He contends that the Tribunal wrongly fastened contributory negligence on him, that to an extent of 20%. As such, he prayed to allow the appeal and to award the compensation as sought in the claim petition.

4. Per contra, in MFA No.100230/2017 the Respondent seeks setting aside the impugned judgment and award on the ground that it is excessive and disproportionate to the claimant's injuries. They argue the Tribunal erroneously assessed the claimant's disability at 55%, rather than adopting the 1/3rd of total disability opined by PW-2 and PW-3 (non-treating doctors). Further, they attribute the accident solely to the claimant's negligence.

5. Upon hearing submissions from both sides, the following points arise for this Court's consideration:

1. Whether the Claimant contributed to the accident, and if so, to what extent?
2. Whether the Claimant is entitled to enhanced compensation, and if so, to what quantum?

Point No.1:

6. The parties do not dispute the accident occurred on 12.11.2015 at about 3:35 p.m., near Anmod Ghat Curve, involving the claimant's motorcycle (KA-30-R-3021) and the respondent's NWKRTC bus (KA-42-F-1236). The sole controversy concerns responsibility for the accident and any contributory negligence attributable to either side.

7. The claimant attributes the accident solely to the bus driver's negligence, a contention disputed by the respondent. The claimant has not adduced sufficient evidence on record to establish his contention except producing the copies of the FIR, complaint, Spot Mahazar, rough sketch and accident report.

8. It is also undisputed that the accident occurred near a curve in Anmod Ghat on a 7-meter-wide road. Ex.P3 shows the collision near the road's middle: 2.7 meters from the left edge and 4.4 meters from the right edge, on the Mollem-

Ramnagar stretch. This places the claimant's motorcycle 7-8 feet from the left edge.

9. The Tribunal quantified claimant's contributory negligence at 20%, a determination justified by the record. Admittedly, the claimant was moving towards a rising gradient with the bus approaching from the opposite direction. The claimant's position 7-8 feet from the left edge suggests he failed to observe the oncoming vehicle. Additionally, details of vehicle damages mentioned in Ex.P4 consistent with the motorcycle colliding the bus's right front bumper. Hence, this Court does not find any valid ground to disturb the Tribunal's findings on negligence attribution or its apportionment between the claimant and bus driver. Therefore, Point No. 1 is answered accordingly.

Point No.2:

10. The tribunal has determined the compensation in the case, under following heads:

Sl. No.	Head of Compensation	Amount (in Rupees)
1.	Loss of future income	7,20,000/-
2.	Pain and Suffering	1,50,000/-

3.	Medical Expenses	2,09,000/-
4.	Future medical expenses	30,000/-
5.	Loss of income during laid up period	30,000/-
6.	Food, nutrition and attendant charges	10,000/-
	Total:	11,49,000/-
	Deduction of 20% towards contributory negligence of the claimant	2,29,800/-
	Total compensation	9,19,200/-

11. Ex.P15 – the driving license and Ex.P16 – the transfer certificate contain the claimant's date of birth as 01.06.1982, fixing his age at 33 years on the accident date. The multiplier of 16 is thus appropriate, as held in ***Sarla Verma and Others Vs Delhi Transport Corporation and Another***, reported in **2009 ACJ 1298**.

12. The claimant contended that he was earning a sum of Rs.20,000/- per month by doing mason work as on the date of accident. However, he did not produce any document before the Tribunal to prove this contention. In the said circumstances, the Tribunal presumed the income of the claimant notionally as Rs.7,500/- per month. Whereas, in the chart prepared by

HCLSC, Dharwad for the purpose of settlement of cases before Lok Adalat, the notional income of an unskilled labour during the year 2015 is shown as Rs.8,000/- per month. As such, this Court deems it appropriate to adopt that figure for the claimant.

13. The claimant asserted that the injuries sustained in the accident resulted in permanent disability, rendering him completely incapable of earning a livelihood and his right hand now entirely useless. To substantiate this, he examined two doctors namely Dr. Sangayya Motimath as PW-2 and Dr. Suresh Karalatti as PW-3. Further, he produced disability certificates issued by these doctors at Ex.P12 and Ex.P19, respectively.

14. PW-2 testified that the claimant suffered permanent physical disability of 45% to the right upper limb, 50% to the right lower limb, and 25% attributable to the head injury. Notably, PW-2 made no reference to the percentage of permanent physical disability to the whole body or the extent of loss of earning capacity arising from the injuries. Instead, he confined his observations to pain and restriction of joint movements in the upper and lower limbs, etc.

15. The claimant admittedly sustained fractures of the right clavicle, right femur, right tibia, 4th and 5th ribs, displaced proximal phalanx, nasal bone, and a linear undisplaced parietal bone, along with liver laceration. Several of these, such as the clavicle, nasal bone, and rib fractures constitute non-scheduled injuries. Moreover, it is not the case of the claimant that any of these injuries lead to any complications. Further, during cross-examination, PW-2 conceded that post-fracture union, the affected bones would retain full capacity without restricting limb movement. In our considered view, all these aspects cumulatively suggest PW-2 overstated the percentage of permanent physical disability suffered by the claimant.

16. PW-3, gave assessment of permanent physical disability at 15% to the whole body, an evaluation seemingly predicated primarily on the liver laceration. PW-3 admitted during cross-examination that liver laceration was managed conservatively, indicating it was neither severe nor productive of complications.

17. The Tribunal, relying on the testimony of PW-2 and PW-3 alongside other materials, determined a 55% loss of future earning capacity. Upon re-appreciation of the evidence, this

Court finds such assessment excessive. Given the nature of the right lower limb injury, absence of medical complications during and post treatment, and the claimant's avocation, it is just and proper to hold the loss of future earning capacity at a maximum of 30%. In the above circumstances, the loss of future income to the claimant on account of injuries sustained in the accident works out to Rs.4,60,800/- (i.e., Rs 8,000/- X 12 X 16 X 30%).

18. The tribunal awarded Rs.1,50,000/- towards pain and suffering. Considering the multiple injuries sustained by the claimant and the duration of treatment, this Court declines to interfere with this award.

19. The Tribunal granted Rs.2,09,000/- for medical expenses and Rs.30,000/- for future medical expenses. The claimant claimed Rs.5,00,000/- for past expenses and Rs.2,00,000/- for future needs. However, no documentary evidence substantiates these claims beyond PW-2's testimony that implant removal surgery would cost approximately Rs.1,50,000/-. The award for past medical expenses remains unaltered for want of proof. However, despite the absence of supporting documents, this Court deems it appropriate to

enhance future medical expenses by an additional sum of Rs.50,000/- i.e, a total of Rs.80,000/- under this head.

20. The Tribunal awarded Rs.30,000/- (Rs.7,500/- X 4 months) for loss of income during the laid-up period. Given the gravity of injuries, the probable healing and recovery period, and on account of adopting a notional monthly income of Rs.8,000/-, the claimant is entitled to Rs.48,000/- (Rs.8,000 X 6 months) under this head.

21. The Tribunal awarded only Rs.10,000/- under the head of food and incidental charges. Bearing in mind the nature of injuries and in-patient treatment duration, this Court holds it would be appropriate to award Rs.30,000/- for food and incidental expenses.

22. The Tribunal applied interest at 9% per annum. Given the accident year and no exceptional circumstances warranting a rate exceeding the minimum, the claimant shall receive interest at 6% per annum on the compensation amount from the date of the petition until realization.

23. In the above circumstances, the claimant is entitled to total compensation of Rs.7,82,240/-, under following heads:

MFA No. 103971 of 2016
C/W MFA No.100230 of 2017

Sl. No.	Head of Compensation	Amount (in Rupees)
1.	Loss of Future Income	4,60,800/-
2.	Pain and Suffering	1,50,000/-
3.	Medical Expenses	2,09,000/-
4.	Future Medical Expenses	80,000/-
5.	Loss of Income during laid up period	48,000/-
6.	Food, nutrition and attendant charges	30,000/-
	Total:	9,77,800/-
	Deduction of 20% towards contributory negligence of the claimant	1,95,560/-
	Total compensation	7,82,240/-

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

ORDER

- i. The appeal in MFA No.103971/2016 filed by the Claimant is ***dismissed.***
- ii. The appeal in MFA No.100230/2017 filed by the Respondent is **partly allowed.**
- iii. The Claimant is entitled for total compensation of Rs.7,82,240/- in place of Rs.8,89,200/-

(excluding Rs.30,000/- paid by way of interim compensation, if any) together with interest thereon at the rate of 6% per annum from the date of petition till its realisation.

- iv. The Respondent shall deposit the entire/balance award amount payable if any before the Tribunal within a period of three months from this day.
- v. The amount deposited if any by Respondent before this Court shall be transferred to concerned Tribunal forthwith.
- vi. Draw an award accordingly.

Sd/-
(M.I.ARUN)
JUDGE

Sd/-
(B. MURALIDHARA PAI)
JUDGE