

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 06TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.103387 OF 2016 (MV)

BETWEEN:

SRI. NAGAPPA S/O BHARAMA BARAGALI
AGE: 38 YEARS, OCC. AGRICULTURE COOLIE,
R/O YAMAKANMARDI-591 305,
TALUKA. HUKKERI, DIST. BELAGAVI.

...APPELLANT

(BY SMT. SUNANDA P. PATIL, ADVOCATE)

AND:

1. SRI. MADHAPPAN M. S/O MUNIYAPPAN
AGE: 38 YEARS, OCC. BUSINESS,
R/O: 4/333A, REDOLY HALLI,
SOGATHUR POST, DHARMAPURI,
TAMILNADU-636703.
(OWNER OF CANTER NO.TN-29/AJ-3139)

2. FUTURE GENERAL INDIA,
INSURANCE CO.LTD.,
NO.11, DIVYA TRADE CENTRE,
3RD FLOOR, BRINDAVAN ROAD,
FAIRLANDS, SALEEM, TAMILNADU.
(INSURER OF CANTER NO.TN-29/AJ-3139)

...RESPONDENTS

(BY SRI. R.R. MANE, 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 01.04.2015 IN MVC NO.1810/2013 PASSED BY THE ADDITIONAL MACT, HUKKERI TO THE EXTENT OF DISALLOWED CLAIM AND ENHANCE THE COMPENSATION TO THE TUNE OF RS.8,00,000/- 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 claimant under Section 173(1) of the Motor Vehicles Act, 1988 (for short 'the MV Act'), seeking enhancement of compensation awarded by the Additional MACT, Hukkeri in MVC No.1810/2013 dated 01.04.2015.

2. The facts of the case are that, on 16.01.2012 at about 7.00 hours, the claimant was proceeding in a pick up vehicle bearing registration No.KA-49/738 from Yamakanamaradi towards Sankeshwar for doing coolie work with Smt.Gultaz w/o Hasanabab Mujawar and when the vehicle came near Hattarki bus stand on NH-4, at that time, Canter Vehicle bearing registration No.TL-29/AJ-3139 came from behind, in a rash and negligent manner and dashed against the pick up vehicle and caused the accident. Due to the said impact, pick up vehicle toppled down on the road and the claimant/petitioner sustained grievous injuries. The claimant was shifted to District Hospital, Belagavi and thereafter was shifted and operated in Rajiv Gandhi Rural Hospital, Yamakanamaradi, wherein he was inpatient for one month and even had undergone surgery. The claimant after

discharge had underwent follow up treatments. The claimant spent Rs.2,00,000/- for medical expenses, Rs.15,000/- for conveyance, Rs.20,000/ for attendance charges and special diet etc. Prior to the accident, the claimant was hale and healthy, aged about 35 years. He was doing agricultural coolie work. He was earning Rs.200/- per day and maintaining his family. Due to the accident, the claimant has sustained permanent physical disability. The claimant contends that the accident is caused solely due to rash and negligent driving of the driver of the Canter Vehicle and respondent No.1 being the owner and respondent No.2 being the insurer are jointly and severally liable to pay the compensation.

3. After service of notice, respondent No.1 did not appear and was placed *ex parte*. Respondent No.2 appeared through its counsel and filed objections denying the petition averments including age, income, occupation, expenses towards medical treatment and sustaining any disability. Respondent No.2 further contends that the Canter Vehicle is not involved in the accident and the driver of the said Vehicle had no valid driving licence as on the date of the accident and hence not liable to pay compensation.

4. The appellant examined himself as PW1 and one doctor as PW2 and got marked 11 documents as per Exs.P1 to P11. Respondents did not lead oral evidence but produced copy of insurance policy of the offending vehicle.

5. The Tribunal, after considering the pleadings, oral and documentary evidence, disability certificates, medical bills, wound certificate, and other material on record, awarded a total compensation of Rs.2,35,865/- with interest at 6% per annum.

6. Aggrieved by the same, the claimant preferred this appeal seeking enhancement of compensation, contending that the Tribunal had under-assessed the permanent physical disability, loss of income during treatment, laid-up period, and loss of amenities.

7. The learned counsel for the appellant contended that the claimant had suffered 28% permanent physical disability as per the treating doctor and that the Tribunal erroneously reduced it to 10%. He further submitted that the Tribunal failed to consider loss of income during the six months laid-up period, and that compensation under loss of amenities, and loss of future earning capacity was either inadequately assessed or not

awarded at all. The appellant prayed for enhancement of the total compensation to a reasonable amount, considering the injuries, disability, and financial loss suffered.

8. The learned counsel for the respondent-Insurance Company submitted that the Tribunal had correctly considered the evidence on record and assessed the compensation in accordance with the nature of injury, medical expenses, and loss of income. It was contended that the permanent physical disability of 10% fixed by the Tribunal was fair. He further submits that laid-up period may not be separately claimable and that no enhancement was warranted. The respondent denied any further liability.

9. This Court has heard the learned counsel for the parties and perused the material on record.

10. On consideration of the evidence and material on record, it is evident that the claimant sustained grievous injury in the accident. PW-2, the treating doctor, has opined that the claimant suffered 28% permanent physical disability, affecting his ability to perform agricultural work. Considering the nature of the injury and permanent physical disability, 10% disability

taken by the Tribunal is just and proper. Considering the year of accident, which is in the year 2012, income taken by the Tribunal was Rs.5000/- per month but as per the Chart of the Karnataka Legal Services Authority, the income is to be considered as Rs.6,500/- per month. Applying 10% disability and a multiplier of 16, the loss of future income comes to **Rs.1,24,800/-** (Rs.6,500/- x 12 x 16 x 10%).

11. The claimant was unable to carry out work for approximately three months during the treatment and recovery period. Accordingly, loss of income during this laid-up period is assessed at **Rs.19,500/-** (Rs.6,500/- x 3 months). The compensation under loss of amenities needs to be enhanced to Rs.20,000/- in addition to Rs.10,000/- awarded by the Tribunal, which comes to **Rs.30,000/-**. The compensation awarded by the Tribunal under medical expenses (Rs.39,865/-), pain and suffering (Rs.75,000/-), and special diet, attendant and conveyance charges (Rs.10,000/-) is just and reasonable and is retained.

12. Considering the above, the enhanced compensation payable to the claimant under various heads is as follows:

Head of Compensation	Tribunal Award (Rs.)	Enhanced Award (Rs.)
Medical Expenses	39,865	39,865
Loss of Future Income	96,000	1,24,800
Loss of Income During Laid-up Period	5,000	19,500
Loss of Amenities	10,000	30,000
Pain and Suffering	75,000	75,000
Special Diet, Attendant and Conveyance Charges	10,000	10,000
Total Compensation	2,35,865	2,99,165

13. The Tribunal awarded Rs.2,35,865/-, hence the claimant is entitled to total compensation of **Rs.2,99,165/-**.

14. In view of the above, this Court proceeds to pass the following:

ORDER

- (i) The appeal is **allowed- in- part**.
- (ii) The judgment and award dated 01.04.2015 in MVC No.1810/2013 passed by the Additional MACT, Hukkeri is modified. The claimant is entitled to enhanced compensation of **Rs.63,300/-** (Rs.2,99,165/- less Rs.2,35,865/-) with interest at 6% per annum from the date of petition till realization, subject to exclusion of interest for the delayed period of 475 days in filing the appeal.

(iii) The respondent-Insurance Company is directed to deposit the enhanced compensation amount within eight weeks from the date of receipt of copy of this judgment. Upon deposit, the amount shall be released in favor of the claimant forthwith.

(iv) No order as to costs.

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

KGK,CT:VP