



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 23RD DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE B.M.SHYAM PRASAD

AND

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MFA NO. 100298 OF 2023 (MV-I)

BETWEEN:

MOHAMMED SALEEM
S/O. ABUBAKAR MULLA,
AGE: 39 YEARS,
OCC: SALESMAN IN CLOTH SHOP,
R/O: AT: MANGODLA,
HOLANGADDE,
TQ: KUMTA,
DIST: UTTARA KANNADA
PIN – 581 351.

... APPELLANT

(BY SRI. NAVEEN CHATRAD, ADV. FOR
SRI. MAHESH WODEYAR, ADVOCATE)

Digitally signed by
RAKESH S
HARIHAR
Location: High
Court of Karnataka,
Dharwad Bench

AND:

1. SRI. NARAYAN V. HEGDE
S/O. VISHWANATH HEGDE,
NAVCHETAN ENTERPRISES,
MARATIKOPPA,
MAIN ROAD,
NEAR NITYANAND MATH,
SIRSI – 581 401.
(OWNER OF LGV BEARING
REG.NO. KA-31-9082).
2. THE DIVISIONAL MANAGER,



**NC: 2026:KHC-D:4482-DB
MFA No. 100298 of 2023**

ORIENTAL INSURANCE
COMPANY LTD.,
VISHNU PRAKASH BUILDING,
COURT ROAD,
UDUPI – 576 101.

...RESPONDENTS

(BY SRI. S.S KOLIWAD, ADV. FOR R2;
R1 NOTICE DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173 (1) OF
MOTOR VEHICLES ACT, 1988, PRAYING TO CALL FOR THE
RECORDS; ENHANCE THE COMPENSATION AS PRAYED
FOR IN THE CLAIM PETITION BY MODIFYING THE
JUDGMENT AND AWARD DATED 30.01.2020 PASSED BY
THE LEARNED ADDITIONAL MACT, KUMTA IN MVC
NO.220/2018 IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR ADMISSION, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE B.M.SHYAM PRASAD
AND
THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

PER: THE HON'BLE MR. JUSTICE B.M.SHYAM PRASAD)

This appeal is as against the judgment and award
dated 30.01.2020 in MVC No. 220/2018 on the file of the



Motor Accident Claims Tribunal, Kumta [*the Tribunal*].
The Tribunal has granted to the appellant, who is injured in a road accident on 28.01.2018, compensation of Rs.18,98,207/- with interest at 6% from the date of petition till the date of realization directing the concerned to Insurer¹ to pay this amount. The Tribunal has granted compensation under the following heads:

Particulars	Amount
Towards Pain and Suffering	Rs.1,00,000/-
Medical Expenses	Rs.8,95,207/-
Conveyance, attendant charges & food	Rs.66,000/-
Loss of Income during treatment period	Rs.30,000/-
Loss of Income due to permanent disability	Rs.7,02,000/-
Future Medical expenses	Rs.80,000/-
Loss of Amenities	Rs.25,000/-
TOTAL	Rs.18,98,207/-

2. The Claimant has met with an accident involving the Insured Vehicle when he was travelling on the pillion of a motorcycle on 28.01.2018. The claimant has suffered certain injuries leading to amputation of his right leg below knee. The Claimant

¹ *The Claimant and the Insurer, for reasons of convenience, are referred to accordingly.*



has led in evidence to show that **[a]** the driver of the Insured Vehicle was rash and negligent and therefore responsible for the accident, **[b]** the injuries suffered and the medical treatment received and **[c]** the loss of earning capacity. The Insurer does not dispute the Tribunal's finding on the reason for the accident and its liability to pay the claimants just and reasonable compensation.

3. Sri Naveen Chatrad and Sri S.S Koliwad, the learned counsels for the Claimant and the Insurer, are categorical that the only question presented for consideration in this appeal is about the quantum of compensation. Sri S.S Koliwad canvasses that there must be an enhancement in compensation awarded by the Tribunal towards **[a]** Pain and Suffering, **[b]** Loss of Income during Treatment Period and Loss of Income because of the Permanent Disability [*the Loss of Future Income*], **[c]** Loss of amenities, and **[b]** the Cost of Prosthetics [*an artificial*



limb]. The rival submissions and this Court's opinion in these regards are as under

[a] On Pain and Suffering:

3.1 The Tribunal has awarded Rs.1,00,000/- under this head listing the injuries suffered by the Claimant. The Claimant, apart from the injuries resulting in amputation of right limb below knee, has suffered injuries to the head and he is hospitalised over two months involving a surgical procedure. Sri Naveen Chatrad argues that this Court must grant just and reasonable compensation in the light of the injuries suffered and the continuing suffering for the claimant. Sri S.S Koliwad is heard, and this Court is of the opinion that there could be a marginal enhancement under this head to ensure that the claimant receives just and reasonable compensation and such marginal enhancement must be in a sum of Rs. 25,000/-. The claimant therefore will be entitled to a total sum of Rs.1,25,000/- as against Rs.1,00,000/-awarded by the Tribunal.



[b] On Loss of Future Income and Treatment Period.

3.2 The Doctor who is examined by the Claimant as PW-2 has opined that the Claimant has suffered disability of 90%, and the Tribunal has opined that one third of this assessment must be taken as the functional permanent disability suffered by the Claimant. As such, the Tribunal has assessed the Claimant's permanent disability at 30%. Sri Naveen Chatrad argues that this Court must consider the permanent disability suffered in the backdrop of the fact that the Claimant, as of the date of the accident, was working as a Salesman and that with the amputation of the right leg below knee his earning capacity is wholly reduced.

3.3 The learned counsel argues that the permanent disability, when there is amputation below knee, under the Employee's Compensation Act, 1923, is taken at 50% and that guides the assessment of the Claimant's permanent disability. Sri S S Koliwad cannot



contest this position. This Court must opine that compensation under loss of income because of the permanent disability is essentially an assessment of functional disability. The claimant has suffered, as a salesman, amputation below knee and it would be appropriate to assess the loss of income because of permanent disability at 50%.

3.4 The Tribunal, for the purposes of assessing loss of income for the Claimant both during the laid up period and in the future, has taken the notional income of Rs.13,000/- per month. It is undisputed that according to the Schedule for settlement in Lok Adalat, in the cases arising out of accidents in the year 2018, the notional income is taken at Rs.13,000/- per month. Even in the present case the loss of income must be calculated by taking the monthly income of Rs.13,000/- to ensure that there is uniformity and consistency. As such, no exception can be taken with the Tribunal's finding in this regard. The loss of income even during the laid period



must be computed taking the notional income at Rs.13,000/- per month. The Tribunal has allowed loss of Income for the laid-up period in a sum of Rs.30,000/- only for a period of 66 days, but this Court is of the opinion that the Claimants is entitled for the income lost for 6 months because of the injuries suffered by him.

3.5 Further, there must be an addition towards loss of future prospects in the computation of Loss of Future Income, and the addition, as it is settled, must be 40% because the claimant was aged 37 years. As there is no dispute about the Claimant's age, the multiplier of '15' as taken by the Tribunal must be retained. The total compensation under the head of loss of future income will be in a sum of **Rs.16,38,000/-** which is brought on by the following computation.

Details for Computation of Loss of Future Earning Capacity		
Monthly Income		Rs. 13,000/-
Addition towards Future Prospects	40%	Rs. 5,200/-
Monthly Income + Future Prospects		Rs. 18,200/-
Annual Income		Rs. 2,18,400/-



Percentage of Disability	50%	Rs. 1,09,200/-
Multiplier	15	
Loss of Earning Capacity		Rs.16,38,000/-

[c] On Loss of amenities

3.6 The Tribunal has awarded a sum of Rs.25,000/- towards loss amenities to the claimant because of the permanent disability suffered by him. Sri Naveen Chatrad argues for enhancement under this head asserting that the amount must be commensurate with the loss suffered because of the amputation. The loss of a limb below will definitely result in the loss of multiple amenities and it brings about a reliance on others and external factors. Upon hearing Sri S S Koliwad, this Court opines that compensation under this head must be in a sum of Rs.1,00,000/- as against Rs.25,000/-.

[d] On cost of prosthetics [an artificial limb].

3.7 The Claimant has not let in any evidence on the cost that he must incur throughout his life to buy



artificial limb/s, but that cannot detract the merits of the claim under this head because, inarguably, the Claimant will have to use artificial limb and keep changing their at regular intervals. The Claimant, even as of date, is aged 45 years and this will mean that he must be granted just compensation on an estimate. After a careful consideration, this Court opines that the compensation under this head must be in a sum of Rs.2,00,000/-.

4. The Claimant, in the light of the afore discussion, will be entitled to a total compensation of **Rs.31,82,207/-** as against Rs.18,98,207/- awarded by the Tribunal with an enhancement in a sum of **Rs.12,84,000/-** This is brought on by the following Comparative Table.

Heads	By Tribunal	By this Court
Towards Pain and Suffering	Rs.1,00,000/-	Rs.1,25,000/-
Medical Expenses	Rs.8,95,207/-	Rs.8,95,207/-
Conveyance, attendant charges & food	Rs.66,000/-	Rs.66,000/-
Loss of Income during treatment period	Rs.30,000/-	Rs.78,000/-²

² [Rs.13,000/- X 6 months]



Loss of Income due to permanent disability	Rs.7,02,000/-	Rs.16,38,000/-
Future Medical expenses	Rs.80,000/-	Rs.80,000/-
Loss of Amenities	Rs.25,000/-	Rs.1,00,000/-
Cost of Prosthetics	NIL	Rs.2,00,000/-
TOTAL	Rs.18,98,207/-	Rs.31,82,207/-
<i>Enhanced Compensation</i>		Rs.12,84,000/-

In light of the above, the following:

ORDER

A. The Appeal is allowed in part.

B. The appellant-claimant is granted an enhanced compensation in a sum of rupees in **Rs.12,84,000/-** along with interest at 6% per annum from the date of the petition with the Tribunal till the date of deposit.

C. The Insurer shall deposit the *enhanced compensation* amount of **Rs.12,84,000/-** along with interest at 6% per annum as



aforesaid with the Tribunal within 8 [eight]
weeks from the date of receipt of a certified
copy of this order.

Sd/-
(B.M.SHYAM PRASAD)
JUDGE

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

*KMS
CT-ASC
List No.: 4 Sl No.: 3