



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 2ND DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

MISCELLANEOUS FIRST APPEAL NO. 100445 OF 2022 (MV-I)

BETWEEN:

SMT. LAKSHMI DEVI K.
W/O LATE K. DHARMAPPA,
AGE. 58 YEARS, OCC. HOUSE WIFE,
R/O. D.NO.LIG-421, KHB COLONY,
BALLARI-583 101.

... APPELLANT

(BY SRI. Y. LAKSHMIKANT REDDY, ADVOCATE)

AND:

1. G.M. PRAJWAL S/O G.M. MALLIKARJUNA REDDY,
AGED ABOUT 23 YEARS,
RIDER CUM OWNER OF THE BAJAJ MOTORCYCLE
BEARING REG. NO.KA-34/EH-9090,
R/O. MATRU KRUPA BESIDE SRI. GSR TOWER,
PARVATHI NAGAR, BALLARI-583 101.

2. THE DIVISIONAL MANAGER,
M/S NATIONAL INSURANCE COMPANY LIMITED,
GSR TOWER, TS.NO.12/2A/146
A AND B OPPOSITE, PETROL BUNK,
MAIN ROAD, PARVATHI NAGAR,
BALLARI-583 101.

... RESPONDENTS

(BY SRI. M.Y. KATAGI, ADVOCATE FOR R2;
R1-DISPENSED WITH)

THIS MFA FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, ALLOW THE APPEAL BY MODIFYING THE JUDGMENT AND AWARD DATED 23.02.2018 PASSED IN MVC NO.1062/2018 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL-II, AT BALLARI, BY ENHANCING THE COMPENSATION RS.14,00,000/- TO THE APPELLANT AND ETC.

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





ORAL JUDGMENT

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

1. The Claimant in MVC No. 1062/2018 on the file of the learned Motor Accident Claims Tribunal-II, Ballari, has preferred this appeal seeking enhancement of compensation, being aggrieved by the Judgment and Award dated 23.02.2021 passed therein.

2. The learned Tribunal has awarded a total compensation of ₹4,01,485/- to the Claimant along with interest at 7% per annum from the date of petition till realization, under the following heads:

Sl.No.	Heads of Compensation	Amount in Rs.
01	Pain and Suffering	40,000
02	Medical Expenses, surgery and treatment	1,65,685
03	Food, nourishment, conveyance and attendant charges	20,000
04	Loss of Income during period of hospitalization and treatment	27,000
05	Loss of amenities	10,000
06	Loss of future income	1,18,800
07	Future medical expenses	20,000
	Total:	4,01,485



3. Learned Counsel for the Appellant submitted that the Tribunal has awarded meagre compensation in the case. It is submitted that the Tribunal has taken the monthly income of the Claimant as ₹9,000/- per month instead of ₹11,750/- per month, as reflected in the notional income chart prepared by the High Court Legal Services Committee, Dharwad, for the purpose of Lok Adalat. It is further submitted that the Tribunal has taken permanent physical disability of the Claimant only as 10% despite the Claimant having adduced medical evidence to show that she has suffered 36% permanent disability to the whole body. Learned Counsel for Claimant has also submitted that The Tribunal has awarded inadequate compensation under the heads of pain and suffering, loss of amenities, and future medical expenses.

4. Per contra, learned Counsel Sri M. Y. Katagi, appearing for Respondent No. 2, supported the findings recorded by the Tribunal and submitted that the claimant



has failed to make out any valid ground for interference with the impugned judgment and award.

5. The Claimant has filed the claim petition in MVC No. 1062/2018 seeking compensation for the injuries sustained by her in a road traffic accident occurred on 05.07.2018 due to actionable negligence on the part of the rider of motorcycle bearing registration No.KA-34-EH-9090, which was insured with Respondent No.2. The Tribunal has held that the accident occurred due to rash and negligent driving on the part of the rider of the motorcycle and held that Respondent No.2 being the Insurer of the said vehicle, liable to indemnify the insured in paying the compensation amount. The finding of the Tribunal in this regard has not been challenged either by Respondent No. 1 or Respondent No. 2.

6. It is the case of the Claimant that on account of the injuries sustained in the accident, she had suffered communitated fracture of both bones of left leg and



communited fracture of right acetabulum and that due to said injuries she has suffered loss of future earning capacity. It is further case of the Claimant that she was aged 55 years at the time of the accident and she was earning sum of Rs.3,00,000/- p.a. as a progressive agriculturist. The Tribunal, while assessing loss of future income of the Claimant, concluded that she has got 10% of permanent disability on account of injuries sustained in the accident and calculated her loss of future income by taking her income as Rs.9,000/- per month and applying multiplier of 11.

7. Admittedly, the Claimant has not produced any documentary evidence before the Tribunal to prove her actual income at the relevant point of time. Whereas, The Tribunal considering the age and avocation of the Claimant, notionally assessed her income as Rs.9,000/- per month by taking her capacity to earn as Rs.300/- per day. It is also not in dispute that HCLSC, Dharwad has prepared a chart regarding notional income, for the purpose of Lok-Adalath,



wherein the notional monthly income of a person is shown as Rs.11,750/- during the year 2018. If the said mention is taken note of, then it is to be held that the notional income of the Claimant taken by the The Tribunal is on the lower side.

8. With regard to age of the Claimant, the Tribunal has relied on the contents of wound certificate marked at Ex.P5 to hold that she was aged 55 years at the time of the accident. However, as per the discharge summary and other medical records available on record, the Claimant was aged 61 years at the relevant point of time. Hence, this Court holds that The Tribunal has not properly appreciated the materials available on record to conclude the age of Claimant for the purpose of applying correct multiplier. Thus, based on the materials available on record this Court holds that the Claimant was aged between 61 to 65 years at the relevant point of time and proper multiplier was 7 instead of 11 applied by the Tribunal.



9. PW-2 Dr. M. J. Shashidhar Reddy, in his evidence has stated that because of restriction in left knee and ankle as well as wasting of calf muscle, the Claimant has got certain disabilities and opined that on account of the same, she has got permanent partial disability of 36% to the whole body. It is to be noted that PW-2 has not stated anything about percentage of loss of future earning capacity in the Claimant. Further, even according to PW-2, the Claimant has difficulty in walking, climbing stairs, squatting, using Indian toilet etc and the disability given by him was partial disability. As such, this Court opines that it would be proper to take one-third thereof, i.e., 12%, as functional disability or loss of future earning capacity suffered by the Claimant due to injuries sustained in the accident. In that event, the loss of future income suffered by the Claimant would be Rs.1,18,440/- ($\text{₹}11,750 \times 12 \times 7 \times 12\%$).

10. PW-2 has further deposed that the Claimant requires approximately ₹30,000/- for her further treatment i.e. removal of implants. The Tribunal has awarded a sum of



₹20,000/- under this head. This Court does not find any justification in the Tribunal having awarded lesser amount under this head ignoring the statement of PW-2, who is an Orthopaedic Surgeon. Hence, this Court holds that the Claimant is entitled for a sum of Rs.30,000/- under the head of future medical expenses in place of Rs.20,000/- awarded by the Tribunal.

11. Similarly, this Court finds that the compensation awarded by the Tribunal under the head of pain and suffering and loss of amenities is inadequate. Hence, the compensation under these heads is enhanced to ₹50,000/- and ₹30,000/- respectively.

12. The Tribunal has awarded a sum of ₹27,000/- to the Claimant towards loss of income during the period of treatment. As already pointed out, the Tribunal has arrived at the said figure by taking notional income as ₹9,000/- per month. Since this Court has assessed the notional income at



₹11,750/-, the loss of income during the treatment period is enhanced to ₹35,250/- (Rs.11,750/- X 3).

13. In the absence of supporting documentary evidence, this Court does not find any reason to interfere with the compensation awarded by the Tribunal under the head of medical expenses and incidental charges.

14. Hence, it is held that the Claimant is entitled for total compensation of Rs.4,49,375/- under the following heads:

Sl.No.	Heads of Compensation	Amount in Rs.
01	Pain and Suffering	50,000
02	Medical Expenses, surgery and treatment	1,65,685
03	Food, nourishment, conveyance and attendant charges	20,000
04	Loss of Income during period of hospitalization and treatment	35,250
05	Loss of amenities	30,000
06	Loss of future income	1,18,440
07	Future medical expenses	30,000
	Total:	4,49,375



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

ORDER

- i. The appeal is partly allowed.
- ii. The Claimant is entitled for total compensation of ₹4,49,375/- in place of ₹4,01,485/- awarded by the Tribunal.
- iii. The enhanced compensation amount shall carry interest at the rate of 7% per annum from the date of petition till realization.
- iv. Respondent No. 2 shall deposit the enhanced compensation amount before the Tribunal within a period of three months from this day.



v. The Claimant is entitled to withdraw the enhanced compensation amount on its deposit.

vi. Draw modified award accordingly.

Sd/-
(B. MURALIDHARA PAI)
JUDGE

VB
CT:BCK
LIST NO.: 1 SL NO.: 38