



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

MISCELLANEOUS FIRST APPEAL NO.101944 OF 2021 (MV)

BETWEEN:

SHRI. ASHOK S/O. NAGESHWAR RAO KODUKULA
AGE: 28 YEARS, OCC: MEDICAL STUDENT,
(NOW NIL), R/O. PUDIMADAKA ROAD,
NEAR RTC COMPLEX, ANAKAPALLI,
VISAKAPATANAM, ANDHRA PRADESH-531001,
NOW RESIDING AT C/O. SHAMAS
MOHAMMEDGOUS KILLEDAR,
PLOT NO.85, CTS NO.728,
SHAHU NAGAR, BELAGAVI-590010.

...APPELLANT

(BY SMT. GEETHA K.M., ADVOCATE)

AND:

1. SHRI. MAHADEV S/O. BOMMAYYA GUNAGA
AGE. MAJOR, OCC. AGRICULTURE,
C/O. GOVIND VITTAL GUNAGA,
R/O. GANESH NAGAR, HALAKAR,
KUMTA, DIST: UTTAR KANNADA-581362.
2. THE DIVISIONAL MANAGER
UNITED INDIA INSURANCE COMPANY LTD.,
HAVING ITS DIVISIONAL OFFICE AT
P.B NO.1568, SITA SMRITI, MARUTI GALLI,
BELAGAVI-590001.
INSURER OF ASHOK LEYLAND 31161L
TANKER NO.KA47/5381,
POLICY NO. 2409013115P108075478,

VISHAL
NINGAPPA
PATTIHAL


Digitally signed by
VISHAL NINGAPPA
PATTIHAL
Location: HIGH COURT
OF KARNATAKA
DHARWAD BENCH



VALID FROM 16-10-2015 TO 15-10-2016,
11-3-2013 TO 10-03-2014.

3. SRI. NEMANI SATYADEVA S/O. N.B.V. PRASAD
PERMANENT RESIDENT OF
MUMMIDIVARAM- 533216,
DIST. GODAWARI EAST,
ANDRA PRADESH STATE,
PRESENTLY RESIDENT OF
C/O. CHANAKYA HOSTEL,
JNMC COLLEGE CAMPUS,
NEHRU NAGAR, BELAGAVI,
BELAGAVI-590010.

...RESPONDENTS

(BY SRI. S.V.YAJI, ADVOCATE FOR R2;
NOTICE TO R1 AND R3 IS DISPENSED WITH)

THIS MISCELLANEOUS FIRST APPEAL IS FILED U/S.173 (1)
OF MOTOR VEHICLES ACT, AGAINST THE JUDGMENT AND
AWARD DATED 22.04.2021 PASSED IN MVC NO.1862/2016 ON
THE FILE OF THE VI ADDITIONAL DISTRICT AND SESSIONS
JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL,
BELAGAVI, PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION; AND ETC.

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 SHIVASHANKAR AMARANNAVAR)

The claimant has filed this appeal seeking enhancement of the compensation awarded in the judgment and award dated 22.04.2021 passed in MVC No. 1862/2016 by the VI Additional District and Sessions Judge and Additional MACT, Belagavi.

2. The facts leading to filing of claim petition are as under;

That on 06.02.2016 at about 09.40 a.m. the claimant was proceeding on motorcycle bearing registration No.AP-16/BL-2341 from R,N. Shetty Politechnic College towards KPTCL Hall, Shivabasav Nagar, Belagavi along with the pillion rider in a moderate speed. At that time, an Ashok Leyland Tanker bearing registration No.KA -47/5381 came from Shrinagar towards R.N Shetty Polytechnic college, driven by its driver in very high speed, rash and negligent manner and dashed to the claimant's motorcycle from the opposite direction. Due to the said impact, the claimant fell down and thereafter right wheel of the said tanker ran over the left hand



of the claimant. Due to the said accident, the claimant sustained grievous fractures and was taken to KLE Hospital, Belagavi, wherein he took treatment as an inpatient for a period of 11 days and during the said period, the claimant underwent operations on the fractured area. Thereafter, the claimant was shifted to Omni R.K. Super Speciality Hospital, Visakhapatnam, Andhra Pradesh wherein he took treatment as an indoor patient for a period of 8 days. Thereafter, he was again shifted to KLE Hospital and admitted as an indoor patient for a period of 11 days and underwent operation. The claimant stated to have spent more than Rs.15,00,000/- towards medical treatment and he requires more than Rs.5,00,000/- towards future medical expenses. Due to the said accident, the claimant has suffered permanent physical disability.

3. The claimant was aged 23 years as on the date of accident and he was a student studying in final year M.B.B.S. at J.N.M.C. Medical College, Belagavi. It is stated that due to injuries sustained, the claimant cannot lift any object with his left hand and cannot do any work. The claimant has also lost



his marriage prospects. The accident in question has occurred solely due to the rash and negligent driving of Ashok Leyland Tanker by its driver. Respondent Nos.1 and 2 being the owner and insurer of the said Ashok Leyland Tanker are jointly and severally liable to pay the compensation to the claimant.

4. Respondent No.2 in his statement of objections has specifically contented that the motorcycle driver has been charge sheeted even under Section 3 read with Section 181 of Motor Vehicles Act and itself indicates that he was not holding a valid and effective driving licence at the time of the accident. The owner of the said motorcycle i.e., respondent No.3 has entrusted the vehicle to the rider and had violated policy conditions. The alleged accident took place due to rash and negligent driving of the motorcycle. The police have falsely filed charge sheet against the driver of Ashok Leyland Tanker.

5. On the basis of the above said pleadings, the Tribunal has framed the following issues:

1. *Whether the petitioner proves that he sustained grievous fracture injuries as mentioned in Col No.11*



of the petition in a road traffic accident that occurred on 06.02.2016, at about 9.40 hours on R.N. Shetty Polytechnic College to KPTCL Hall Road. Opp. KPTCL Hall, Shivabasava Nagar, Belagavi due to the rash and negligent driving of the driver of the Ashok Leyland 3116IL Tanker No.KA-47/5381 as alleged in the petition?

2. *Whether the petitioner is entitled for compensation as claimed? If so, to what amount and from whom?*
3. *What order or award?*

6. The petitioner –claimant has been examined as P.W.1, got examined witnesses as P.W.2 and P.W.3 and got marked documents as Ex.P1 to Ex.P18. Respondent No.2 has got examined its Administrative Officer as R.W.1 and got marked documents as Ex.R1 and R2.

7. Earlier Tribunal has passed judgment and award dated 11.09.2018 and the same has been challenged by the claimant in MFA No.104482/2018 seeking enhancement of the compensation. The said appeal came to be allowed in part, setting aside the judgment and award and matter came to be remanded to the Tribunal for leading additional evidence.



After remand of the matter, respondent No.2's official has been examined as R.W.2 and got marked Ex.R3 and R4. The Tribunal after hearing arguments and appreciating the evidence on record has held that the driver of the motorcycle and driver of the Tanker have jointly contributed to the accident in the ratio of 40:60 and awarded compensation under different heads as under:

Sl. NO	Heads	Compensation amount in Rs.
1.	Pain and sufferings	50,000
2.	Medical expenses	3,87,397
3.	Future loss of earning	5,61,600
4.	Conveyance, attendant charges, nourishment	21,000
5.	Loss of amenities	50,000
6.	Loss of marriage prospects	30,000
	Total	10,99,997
	Rounded off	11,00,000

8. The claimant challenging the said judgment and award seeking enhancement and also liability saddled on him has filed the present appeal.

9. Heard learned counsels appearing for parties, we have perused the impugned judgment and award and the trial



court records and the following points arise for our consideration:

- i) *Whether the Tribunal is justified in saddling the liability on the rider of the motorcycle and driver of the Tanker in the ratio of 40:60?*
- ii) *Whether the compensation awarded requires to be enhanced?*

Point No.1: P.W.2 is the pillion rider on the motorcycle which the claimant was driving as on the date of incident. P.W.2 has deposed that the driver of Tanker drove his vehicle in high speed in a rash and negligent manner and dashed to the motorcycle from opposite direction due to which claimant fell down on the road and thereafter, the right wheel of the Tanker ran over the left hand of the claimant.

10. R.W.1 is the Administrative Officer of respondent No.2 -insurer. In his evidence has admitted the occurrence of the accident on 06.02.2016 and stated that the rider of the motorcycle while negotiating a huge ditch was unable to control his vehicle both on account of ditches on the road as well as on account of his lack of knowledge to drive the



motorcycle and therefore, lost control over the motorcycle and fell on the road. The driver of the Tanker tried his best to stop the Tanker, but was not able to control the vehicle and one of the wheels ran over the claimant, resulting in the accident.

11. R.W.2 is also another authorized officer of the insurer. In his evidence, he has stated that the claimant was accused in the criminal case, his statement has been recorded under Section 313 of Cr.P.C and in the statement he has clearly admitted that the alleged accident has not taken place due to the rash and negligent driving of driver of the Tanker. R.W.2 has admitted that the driver of the offending vehicle has been arrayed as accused No.2 in the criminal case and he has admitted his guilt before the JMFC and has been convicted and he paid fine.

12. The cleaner of the Tanker has filed first information as per Ex.P2 and on that basis, FIR came to be registered as per Ex.P1 against the claimant and also the driver of the Tanker. Ex.P3 is the spot panchanama and Ex.P4 is the sketch of the scene of offence. Ex.P5 is the IMV report and Ex.P7 is the charge sheet filed against the claimant



and also the driver of Tanker. The claimant and the pillion rider have not filed any complaint regarding the incident. Ex.P5 -IMV report does not indicate any damage found on the front side of the motorcycle and only scratches were noticed on the silencer. Ex.P3 makes it clear that there were ditches on the road. Ex.P2 -first information given by the cleaner indicate that the driver of the Tanker was driving the Tanker in high speed. The above-said police documents indicate that the accident in question was not a head-on collision but had occurred after claimant fell down from his motorcycle and skidded towards the Tanker which was coming from the opposite direction in high speed. Respondent No.2 -insurer has not led any independent evidence to prove that the driver of the Tanker was proceeding in a moderate speed and not contributed to the accident in question. More so the driver of the Tanker has admitted his guilt and he has been convicted and paid fine as per Ex.P19. The Tribunal has rightly considered that Ex.R4 -the statement of the claimant recorded under Section 313 of Cr.P.C in the criminal case, that it only enables the accused to explain the incriminating



circumstances against him and it cannot be used as a proof of admission. Considering these above aspects, it is clear that even the driver of the Tanker had contributed to the accident in question due to his rash and negligent driving. Considering the above aspect, the Tribunal has rightly held that the rider of the motorcycle as well as the driver of the Tanker had contributed to the accident in question and rightly fixed their liability in the ratio of 40:60. In view of the above, point No.1 is answered accordingly.

13. **Point No.2:** The claimant was admitted as an indoor patient for 11 days in KLE Hospital, Belagavi, for 08 days in OMNI R.K Super Specialty Hospital, Vishakapatnam and for 10 days in KLE Hospital, Belagavi. Ex.P8 and 12 - discharge summaries indicate that the claimant has undergone surgery on the fractured area during his hospitalisation. Ex.P6 -wound certificate indicate the following injuries sustained by the claimant.

1. Left hand crush injury bone
- 2.Muscles tendons fractures forearm
- 3.Fracture humerus



Considering the said aspects, the claimant is entitled to a sum of Rs.1,00,000/- towards pain and suffering as against Rs.50,000/- as awarded by the Tribunal.

14. The claimant is aged 23 years and considering his age, the multiplier applicable is 18. It is not in dispute that the claimant was studying M.B.B.S at JNMC college, Belagavi. P.W.3 is the doctor, who has issued the disability certificate – Ex.P10 and he has given evidence that the claimant has sustained permanent physical disability of 50% in respect of his left upper limb. The X-ray films are at Ex.P17. Considering Ex. P10, P17 and the evidence of P.W.3 -doctor, the Tribunal has taken disability of whole body at 13%. The claimant is an M.B.B.S student and after completing it he has to take up the profession of a medical practitioner. Considering the said fact, the disability has to be assessed. Even though the doctor has pointed that the disability of left upper limb is 50%, the Tribunal has erred in taking the disability at 10%. Considering the said aspect the disability of left upper limb is 50%. The functional disability has to be taken at 30%. The Tribunal considering the fact that the claimant is M.B.B.S



student has rightly taken the notional income at Rs.20,000/- per month. Considering the said aspects, the claimant is entitled to compensation for loss of future income as under;

$$\text{Rs.20,000/-} \times 12 \times 18 \times 30\% = \text{Rs.12,96,000/-}.$$

15. The claimant has been admitted as an inpatient for total period of 21 days. Considering the fact that the claimant has taken treatment in hospitals at Belagavi and Andhra Pradesh is entitled to a sum of Rs.50,000/- as against Rs.21,000/- towards conveyance, attendant charges and nourishment.

16. The claimant has sustained grievous injuries in the accident and also has suffered permanent disability. Therefore, the claimant will suffer discomfort throughout his life. Considering the said aspect, he is entitled to a sum of Rs.1,00,000/- towards loss of amenities as against Rs.50,000/- as awarded by the Tribunal.

17. The claimant is aged about 23 years and he is M.B.B.S student. Due to the disability to his left upper limb has affected his marriage prospects. Considering the said aspect, the claimant is entitled to a sum of Rs.1,00,000/-



towards loss of marriage prospectus as against Rs.30,000/- as awarded by the Tribunal. The Tribunal has rightly awarded medical expense of Rs.3,87,397/- considering the documents produced. Considering all the above aspects, the claimant is entitled to total compensation as under:

Sl. NO	Heads	Amount In Rupees
1.	Pain and sufferings	1,00,000/-
2.	Medical expenses	3,87,397/-
3.	Future loss of earning	12,96,000/-
4.	Conveyance, attendant charges, nourishment	50,000/-
5.	Loss of amenities	1,00,000/-
6.	Loss of marriage prospects	1,00,000/-
	Total	20,33,397

Out of the above said compensation, the claimant is entitled to 60% of it from respondent Nos.1 and 2 -owner and insurer of the Tanker which comes to **Rs.12,20,038/-**. Considering the above aspects, there is enhancement of the compensation. Accordingly, point No.2 is answered.

18. In view of the above, the following

ORDER

- i) The appeal is ***allowed in the part.***



- ii) Respondent Nos.1 and 2 are entitled to pay 60% of compensation amount i.e., **Rs.12,20,038/-** with interest at the rate of 6% per annum from the date of petition till the date of payment as against Rs.6,60,000/- as awarded by the Tribunal.
- iii) Respondent No.2 –insurer shall deposit compensation amount with interest within a period of 08 weeks from this day excluding the amount already deposited.
- iv) The claimant is entitled to release of entire enhanced compensation amount with interest.

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

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

DSP
CT:VH
List No.: 1 Sl No.: 7