



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 25TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

MISC. FIRST APPEAL NO.200317 OF 2018 (MV-I)

BETWEEN:

SARAFARAJ S/O SHAIK SABER,
AGE: 21 YEARS, OCC: NIL(STUDENT),
R/O: H.NO.8-1545/160,
TAJ NAGAR, KALABURAGI-585104.

...APPELLANT

(BY SRI. S. G. PATIL OKALY, ADVOCATE)

AND:

1. JILANI BAGAVAN S/O GAFUR BAGAVAN,
AGE: MAJOR, OCC: OWNER OF
LORRY BEARING REG.NO.KA-25/B-5860,
R/O: H.NO.1194, BALAJI MANDIR KATTA,
LATUR MAHARASTRA STATE-420001.
2. THE MANAGER,
SRIRAM GENERAL INSURANCE COMPANY LTD.
E-8, RIICO INDUSTRIAL AREA, SITA PURA,
JAIPUR RAJASTAN-302022.

...RESPONDENTS

(BY SRI. DEELIP TULSIRAM KAMBLE, ADVOCATE FOR R1;
SRI. RAKESH DESAI, ADVOCATE FOR
SRI. SUBHASH MALLAPUR, ADVOCATE FOR R2)





THIS MFA IS FILED UNDER SECTION 173 (1) OF MOTOR VEHICLE ACT, PRAYING TO ALLOW THE APPEAL, THE JUDGMENT AND AWARD DATED 04.02.2017 PASSED IN MVC.NO.729/2010 BY THE I ADDL. SENIOR CIVIL JUDGE AND MACT, KALABURAGI, MAY KINDLY BE MODIFIED BY ENHANCING THE COMPENSATION AS CLAIMED IN THE CLAIM PETITION, IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

Heard Sri. S. G. Patil Okaly, learned counsel for appellant as well as Sri. Rakesh Desai, who represents Sri. Subhash Mallapur, learned counsel on record for respondent No.2. Though, Sri. Deelip Tulsiram Kamble, learned counsel is on record representing respondent No.1, he failed to appear and make his submission.

02. Being aggrieved by the sum that is awarded as compensation by the Motor Accident Claims Tribunal, Kalaburagi, through orders in MVC.No.729/2010 dated 04.02.2017, claimant therein preferred this appeal.



03. The claimant a 14 years old boy, met with an accident in the year 2010, which resulted in a crush injury to his right leg and ultimately said leg was amputated by performing a surgery. He being represented by his father, filed a petition claiming compensation of Rs.15,00,000/-. The Tribunal through the impugned order held that he is entitled to a sum of Rs.4,83,000/- as compensation. With a contention that sum thus awarded is grossly low and does not commensurate to the loss sustained, he is before this Court seeking enhancement.

04. Making his submission on the merits of the matter, learned counsel for the appellant contended that, appellant lost one of his lower limbs and thereby he became incapacitated to do any work. He lost all the pleasures in life, amenities and marriage prospects. Without considering the loss sustained, Tribunal granted meager sum as compensation and therefore, this appeal is filed. Learned counsel submits that case facts attracts application of judgment that is rendered by Hon'ble



Supreme Court of India in the case between ***Hitesh Nagjibhai Patel*** and ***Bababhai Nagjibhai Rabari and Another***, in ***Civil Appeal No.10278 of 2025*** and applying the analogy of that decision, the appeal may be disposed of.

05. Learned counsel, who represents respondent No.2 submits the appellant suffered huge loss due to the road traffic accident that occurred and hence, necessary orders may be passed basing on the judgment referred to by learned counsel for the appellant.

06. There is no dispute about the fact that as on the date of accident i.e. on 05.02.2010, the appellant was aged around 14 years. By all the evidence produced, appellant established that he suffered crush injury to his right leg, took treatment for the said injury by getting admitted into hospital and during the course of treatment, a surgery was performed and there was amputation of the leg. The evidence of PW.2 is that, the disability in respect of whole body is 85%. Said assessment requires no interference.



07. In the judgment that is referred to by learned counsel for the appellant, the Hon'ble Apex Court dealing with a case where a boy aged around 8 years suffered with permanent physical disability to an extent of 90%, at para 9 of the judgment held as under:

“9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was



rendered by this Court, in Kajal v. Jagdish Chand and Ors., reported in (2020) 4 SCC 413, and Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr., reported in 2024 SCC OnLine SC 3692."

08. Also, the Hon'ble Court at para 15 of the judgment observed as follows:

"15. For the purpose of emphasis, it is again clarified here that when a Tribunal or the High Court in appeal, is concerned with the case involving a child having suffered injury or having passed away, the calculation of loss of income necessarily has to be made on the matrix of minimum wages payable to a skilled worker in the respective State at the relevant point of time. It is our hope that this restatement helps avoiding such errors and thereby obviates the necessity of this Court's interference, applying well-established principles of law."

09. Hon'ble Apex Court applied the applicable minimum wages for the relevant period. In the State of Karnataka at Kalaburagi region, the notional income for the relevant period i.e., for the year 2010 is being taken as Rs.5,500 per month for settlement of claims by High



Court Legal Services Committee, Kalaburagi Bench.

Therefore, the said figure is taken into consideration. As per the decision of the Hon'ble Apex Court in ***National Insurance Company Limited v. Pranay Sethi and Ors. [(2017)16 SCC 680]***, 40% of the earnings are added towards future prospects. Also, '18' is applied as appropriate multiplier in the light of the decision that is referred to by learned counsel for the appellant, vide decision in Civil Appeal No.10278 of 2025. The disability in respect of whole body is 85%. Therefore, compensation which the appellant is entitled to receive towards loss of future earnings due to disability is as follows:

Notional monthly income	Rs.5,500/-
Annual income (5,500x12)	Rs.66,000/-
On adding 40% towards future prospects	Rs.92,400/-
On applying appropriate multiplier '18'	Rs.16,63,200/-
Loss of future earnings due to permanent physical disability, disability being 85% in respect of whole body	Rs.14,13,720/-



10. In the light of nature of injuries sustained, the surgery underwent and the amputation effected, the appellant is entitled to Rs.1,00,000/- towards pain and suffering.

11. Further, appellant is entitled to a sum of Rs.20,000/- for his food, extra nourishment, attendant and conveyance charges.

12. He is also entitled to Rs.1,00,000/- towards loss of amenities in life including marriage prospects.

13. Further, for future medical expenditure which includes cost of purchase and timely replacement of artificial limb, a sum of Rs.1,00,000 is required to be awarded.

14. Therefore, total compensation which the appellant is entitled to receive under different heads is as under:



Sl. No	Description	Amount in Rs.
1.	Towards pain and suffering.	1,00,000/-
2.	Towards medical expenses	47,690/-
3.	Towards food, extra nourishment, attendant and conveyance charges	20,000/-
4.	Loss of future earnings due to disability	Rs.14,13,720/-
5.	Towards loss of amenities including marriage prospects	1,00,000/-
6.	Future medical expenses which includes cost of purchase and timely replacement of artificial limb	1,00,000/-
	Total	17,81,410/-

15. Tribunal, as earlier mentioned, held that appellant is entitled to a sum of Rs.4,83,000/- as compensation. However, the aforementioned discussion makes it clear that he is entitled to a sum of Rs.17,81,410/-.



16. The claim of the appellant is for Rs.15,00,000/- only. However, this Court came to a conclusion that appellant is entitled to a sum of Rs.17,81,410 as compensation, which is more than the sum claimed. It is well settled that the Motor Vehicles Act being a welfare legislation, the Tribunals as well as the Appellate Courts can well award the amount which exceeds the sum claimed, in case such sum is found to be justifiable. In catena of decisions, Hon'ble Apex Court expressed the same view including the case in ***Nagappa vs. Gurudayal Singh and others*** reported in ***AIR 2003 SC 674***. Therefore, this Court considers desirable to award the sum which appellant is legally entitled to receive, though said amount exceeds the sum claimed. Thus, appeal is disposed of with the following:

ORDER

- (i) Appeal is *allowed*.



- (ii) The compensation that is granted by the Motor Accident Claims Tribunal, Kalaburagi through orders in MVC No.729/2010 dated 04.02.2017 is enhanced from Rs.4,83,000/- to Rs.17,81,410/-.
- (iii) The enhanced sum shall carry interest at the rate of 6% p.a. from the date of petition till the date of deposit except for the period of delay of 2405 days as per the orders of this Court dated 31.10.2025.
- (iv) Respondent No.2 is directed to deposit the enhanced sum within a period of eight weeks from the date of receipt of certified copy of this judgment.
- (v) Appellant is permitted to withdraw the entire amount on deposit however only on making good the deficit Court fee.

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE