



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 14TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MRS JUSTICE P SREE SUDHA

MISCL. FIRST APPEAL NO.200410 OF 2019 (MV-I)

BETWEEN:

ISHAQ PATEL S/O QAYAM PATEL,
AGE: 29 YEARS, OCC: MECHANIC,
NOW NIL, R/O KONKANALLI,
TQ. SEDAM, DIST. KALABURAGI.

...APPELLANT

(BY SRI SANTOSH BIRADAR, ADVOCATE)

AND:

1. MOHD. BABAR
S/O MOHD. MAQBOOL SAB,
AGE: 48 YEARS,
OCC: OWNER OF MOTOR CYCLE
BEARING NO.KA-1/EV-7877,
R/O H.NO.7-947, NEAR HAJ COMMITTEE,
MIJAGURY ROAD, NAY MOHALLA,
KALBURAGI-585 101.
2. THE RELIANCE GEN. INSURANCE CO. LTD.,
THROUGH ITS BRANCH OFFICE,
IIIRD FLOOR, ASIA FLAZA,
TIMMAPURI CIRCLE, STATION MAIN ROAD,
KALABURAGI-585 101.

...RESPONDENTS

(BY SRI SUBHASH MALLAPUR, ADV. FOR R2;
R1 - SERVED)



THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO ALLOW THE APPEAL, MODIFY THE IMPUGNED JUDGMENT AND AWARD DATED 15.12.2017 PASSED BY THE COURT OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND MACT, KALABURAGI, IN MVC NO.898/2016 AND ENHANCE THE COMPENSATION AS PRAYED FOR.

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

CORAM: HON'BLE MRS JUSTICE P SREE SUDHA

ORAL JUDGMENT

Though the appeal is listed for admission, with the consent of learned counsel for the parties, it is taken up for final disposal.

2. Heard the arguments of both sides.

3. This appeal is filed against the judgment and award dated 15.12.2017 passed by the II Additional Senior Civil Judge and MACT, Kalaburagi, in MVC No.898 of 2016.



4. The facts of the case are that, on 11.12.2015, while the claimant along with Aziz and Gouse Patel was returning home by walk after attending agriculture work on Sedam-Kalaburagi road near Hosalli cross, the rider of the motorcycle bearing registration No.KA-01/EV-7877 rode it in high speed and rash and negligent manner and dashed to the claimant, due to which, he sustained grievous injuries.

5. Therefore, he filed a claim petition before the Tribunal, claiming compensation of Rs.16,00,000/-. The Tribunal, considering the entire evidence on record, granted compensation of Rs.6,04,900/- with interest at 6% p.a. from the date of petition till realisation and directed respondent No.2-Insurance Company to deposit the same.

6. Aggrieved by the said judgment and award, the injured claimant has preferred this appeal, in which it is contended that, the compensation awarded by the Tribunal is inadequate. The appellant was aged 28 years at



the time of accident, doing mechanic work and earning Rs.12,000/- per month, but due to the injuries sustained in the accident, he lost his earning capacity. He also examined the Doctor as PW.2 and relied upon Exs.P1 to P15. The appellant sustained grievous injuries and PW.2 has rightly assessed the disability at 45% to the whole body, but the Tribunal erred in taking the disability at 15%. The Tribunal has taken his monthly income at Rs.6,000/- instead of Rs.12,000/-. He is suffering from various complications. Therefore, requested for enhancement of compensation.

7. As per the wound certificate, the appellant sustained fracture of frontal bone, hemorrhagic contusion, subdural haematoma and subarachnoid haemorrhage in both frontal lobes, which are grievous in nature. He was admitted to the hospital on 11.12.2015 and discharged in January 2016. PW.2 considered those documents and stated that appellant was admitted on 11.12.2015 and CT scan of brain was done that revealed #of frontal bone,



hemorrhagic contusion, Subdural hematoma and subarachnoid hemorrhage in both frontal lobes. A bi-frontal craniotomy was done on 11.12.2015. Bone flap was left in abdominal wall. He was discharged on 29.12.2015. Cranioplasty was done on 16.01.2016. He mentioned complications in detail and answered that the appellant sustained grievous head injury and brain injury in the accident, residual hemiparesis on left side and also partial loss of hearing in right ear due to the damage to auditory nerve/canal and accordingly assessed the disability at 40% to the whole body. The Tribunal has taken 1/3rd of it as 15%. However, the learned counsel for the appellant contended that, the disability is to be enhanced by considering the nature of injuries sustained by the appellant. But, learned counsel for respondent No.2 submitted that the appellant was cross-examined before the Tribunal after one year and he has answered all the questions and no such complications are considered by the Tribunal and thus, it has rightly assessed the disability at



15% and it needs no interference. As per the disability certificate, appellant has sustained bifrontal craniotomy wound on the right side about 9"x7", tender and parasthesia over and around it. Tracheotomy wound is noted. There is partial loss of hearing in the right ear, so also residual hemiparesis on the left side. He was aged 28 years and was doing Diploma in Engineering. It is stated that, he discontinued the same. Therefore, this Court finds it reasonable to take his disability as 35%.

8. The appellant though stated that he was earning Rs.12,000/- per month, he has not produced any income proof. Therefore, as he met with an accident on 11.12.2015, as per the guidelines of the Karnataka State Legal Services Authority, his notional income is to be taken at Rs.8,000/- per month.

9. As per the guidelines of the Hon'ble Apex Court in the dictum of ***National Insurance Company Limited***



Vs. Pranay Sethi¹, considering the age of the appellant, 40% of the income has to be added towards future prospects and thus, the amount would become Rs.11,200/- per month (8,000+3,200).

10. The multiplier of 17 adopted by the Tribunal is just and proper.

11. Thus, loss of future earnings comes to Rs.11,200 x 12 x 17 x 35% = Rs.7,99,680/-.

12. The amount awarded by the Tribunal towards medical expenses to the tune of Rs.3,31,300/- is just and proper and it needs no interference.

13. The appellant was admitted in the hospital for 50 days. Considering the nature of injuries and period of hospitalisation, this Court finds it reasonable to grant an amount of Rs.75,000/- for pain and suffering, Rs.50,000/- for loss of amenities and Rs.50,000/- for transportation, extra nourishment and attendant charges.

¹ (2017) 16 SCC 680



14. The appellant might not have attended any work at least for a period of six months due to the injuries sustained. Therefore, this Court finds it reasonable to grant an amount of Rs.67,200/- (Rs.11,200 x 6) for loss of income during laid up period.

15. Hence, the appellant is entitled for the modified compensation under different heads as below:

Pain and suffering	Rs.75,000/-
Medical expenses	Rs.3,31,300/-
Transportation, extra nourishment, and attendant charges	Rs.50,000/-
Loss of income during laid up period	Rs.67,200/-
Loss of future earnings	Rs.7,99,680/-
Loss of amenities	Rs.50,000/-
Total	Rs.13,73,180/-
Less: awarded by Tribunal	Rs.6,04,900/-
Enhancement	Rs.7,68,280/-

Thus, the appellant is entitled for enhanced compensation of Rs.7,68,280/- with interest at 6% per annum and therefore, the appeal deserves to be allowed in part.

16. In the result, the following order is passed:



(i) Appeal is allowed in part.

(ii) The appellant/claimant is entitled for the enhanced compensation of Rs.7,68,280/- with interest at 6% per annum from the date of petition till the date of realisation. However, as per order dated 09.06.2022, the appellant is not entitled for interest for the delayed period of 330 days in filing the appeal.

(iii) Respondent No.2-Insurance Company is directed to deposit the aforesaid compensation amount within one month from the date of this judgment.

(iv) On such deposit, the appellant is permitted to withdraw the entire amount along with interest accrued on it.

sd/-
(P SREE SUDHA)
JUDGE