



**IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH**

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE R.NATARAJ

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

MISCL. FIRST APPEAL NO.201565 OF 2023 (MV-I)

BETWEEN:

SOMAPPA
S/O BHIMAPPA HADIMANI,
AGE: 34 YEARS, OCC: AGRICULTURE,
R/O: BAMMANAJOGI
TQ: SINDAGI,
DIST: VIJAYAPURA
NOW AT KANAKADAS BADAVANE,
VIJAYAPURA – 586 101.

...APPELLANT

(BY SRI BABU H.METAGUDDA, ADVOCATE)

AND:

1. BALASAHEB
S/O BASAVANTHRAY BIRADAR,
AGE: 44 YEARS, OCC: BUSINESS,
R/O: KEERTI NAGAR PLOT NO.105,
BEHIND NAYAK, NURSING HOME,
VIJAYAPURA – 586 101.
2. THE MANAGER LEGAL,
ICICI LOMBARD GENERAL
INSURANCE CO. LTD.
"A.K, ASIAN GRAND, 3RD FLOOR,
NEAR MINI VIDHAN SOUDHA,
OPP: GESCOM HEAD OFFICE,
STATION ROAD, KALABURAGI – 585 102.

...RESPONDENTS





(BY SRI MANJUNATH MALLAYYA SHETTY, ADVOCATE FOR R2;
V/O DATED 30.01.2024 NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO ALLOW THIS APPEAL AND MODIFY THE JUDGMENT AND AWARD DATED 4.4.2022 IN M.V.C. NO.340/2019 BY THE PRINCIPAL SENIOR CIVIL JUDGE AND MACT-V AT VIJAYAPUR AND ENHANCE THE COMPENSATION FROM RS.14,77,200/- WITH 6% INTEREST TO RS.52,00,000/- WITH 12% INTEREST AND ETC.

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

CORAM: HON'BLE MR. JUSTICE R.NATARAJ
and
HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE R.NATARAJ)

The claimant is in appeal seeking enhancement of the compensation awarded by Principal Senior Civil Judge and MACT-V at Vijayapura in MVC No.340/2019 by judgment and award dated 04.04.2022.

2. The claimant filed a petition under Section 166 of the Motor Vehicles Act, claiming compensation from the owner and insurer of a Car bearing registration No.KA-28/P-7919 (henceforth referred as 'offending vehicle'). He claimed that he was riding his motorcycle bearing registration No.KA-28/EF-8901 on 06.01.2019 and was rammed by the driver of the offending vehicle. He contended that he was an agriculturist



and was earning monthly income of Rs.20,000/-. As a result of the accident, he claimed that he was permanently disabled and hence claimed compensation from the owner and insurer of the offending vehicle.

3. The insurer contested the claim petition and denied the accident as well as the entitlement of the claimant for compensation. It also claimed that the accident was not due to the negligent driving by the driver of the offending vehicle, but admitted that the vehicle was insured with it.

4. Based on these contentions, the Tribunal set down the case for trial. The claimant was examined as PW-1 and he examined the doctor as PW-2 and marked Exs.P1 to P14. The insurer did not lead any evidence, but marked the copy of the policy of insurance as Ex.R1.

5. Based on the oral and documentary evidence, the Tribunal held that the accident was due to rash negligent driving by the driver of the offending vehicle. It held that the claimant was an agriculturist and the claimant had suffered the following injuries:

- i) Abrasion over forehead with right periorbital swelling.*



- ii) *Abrasion over left foot.*
- iii) *Abrasion over left elbow.*
- iv) *Abrasion over occipital region.*

6. It also noted the evidence of PW-2, who deposed that the claimant had suffered disability to the extent of 75%. Applying guidelines, it considered the disability suffered by the claimant at 25% and his income at a sum of Rs.13,250/- p.m. and awarded the following compensation:

Sl. No.	Heads	Awarded by Tribunal
1	Pain and suffering	Rs.20,000/-
2	Medical bills incurred and future medical expenses, attendant, conveyance, nourishing food, and other incidental expenses	Rs.7,91,000/-
3	Loss of income during laid-up period	Rs.20,250/-
4	Loss of future income on account of permanent disability	Rs.6,36,000/-
5	Loss of Amenities, Life comforts and expectancy of life	Rs.10,000/-
	Total	Rs.14,77,250/-
	Rounded off	Rs.14,77,200/-

7. The Tribunal directed the insurer to pay the compensation along with interest at 6% per annum from the date of claim petition to the date of deposit. Being aggrieved by



the quantum of compensation awarded, the claimant is before this Court.

8. The learned counsel for the claimant submitted that the claimant had suffered paraplegia in both the limbs and this is evident from the evidence of PW-2. He submitted that the claimant was an agriculturist and therefore paraplegia in both the limbs would result in total functional disability and hence the Tribunal must have considered the disability at 100%. He also submits that the claimant is now restricted to bed and therefore the Tribunal committed an error in considering the disability suffered by him at 25% to the whole body. Thus, he prays that the impugned judgment and award passed by the Tribunal be modified and the compensation be enhanced.

9. *Per contra*, learned counsel for the insurer contended that though PW-2 in his chief examination deposed about the claimant suffering paraplegia in both the limbs, but in his cross-examination he stated the contrary. He contends that the claimant had not suffered any serious head injury and therefore the Tribunal had rightly factored the disability



suffered at 25%. He therefore prays that the judgment and award passed by the Tribunal be upheld.

10. We have considered the submissions of the learned counsel for the claimant and the learned counsel for the insurer. We also perused the records of the Tribunal Court.

11. The records disclose that the claimant underwent treatment and was discharged and later the claimant was admitted to the hospital on 06.01.2019 and was discharged on 19.02.2019. The discharge summary at Ex.P8 shows that the initial diagnosis was "*severe head injury with diffuse axonal injury grade-IV with left femur shaft fracture and right distal radius fracture*". The claimant was admitted in a semi-conscious state. A diffuse axonal injury grade-iv is in our understanding, affects the brain stem and though it does not affect the cognitive functions, it affects the movements of the limbs. Claimant had appeared before the Tribunal and had given his evidence. The Tribunal has not noticed that the claimant was in a paraplegic condition. It also did not note that the claimant was not in a position to walk or move or that he was not able to recollect events. On the contrary, evidence of



the claimant recorded before the Tribunal shows that the claimant was in full sense and was capable of handling his affairs. However, the fact remains that the claimant had suffered a serious injury to the head apart from injury to his left or right arm, left femur and right wrist, radius and ulna. The X-rays which are placed on record shows that both the fractures are not united.

12. In the cross examination of PW-2, no suggestions were put to PW-2 that the fractures were united properly. Nothing is also put to PW-2 about the injury suffered by the claimant on his head though PW-2 admitted that head injury was a conservative injury and the claimant had not undergone any surgery. The claimant has not placed on record the MRI scan to show that the injury suffered on the head was axonal injury of grade-iv. Therefore, the Tribunal after having noticed the condition of the claimant and also the material placed on record, was of the opinion that the claimant had suffered 25% disability to the whole body. However, the Tribunal was oblivious of the fact that the claimant was an agriculturist by profession and that injury to the head, injury to the C4 to C6 vertebra as well as the fracture of the left femur and right ulna



and radius, would virtually cripple him for all his life and that he cannot engage in agricultural related activities. Therefore, as deposed by PW-2, we consider it appropriate to accept the disability of the claimant at 75% functional disability to the whole body. Consequently, we consider it appropriate to revisit the compensation determined by the Tribunal. The claimant suffered injuries in the road traffic accident on 06.01.2009 and at the relevant point of time, the notional income considered by this Court for settlement of disputes before the Lok-Adalath is Rs.13,250/-. Therefore, the claimant is entitled to loss of the income for his lifetime by considering the disability @ 75%. Accordingly, loss of future earning has been re-assessed as under:

$$[Rs.13,250/- + 40\% (Rs.13,250/-)] 18,550 \times 12 \times 16 \times 75\% = Rs.26,71,200/-.$$

13. On re-assessment of the compensation, the claimant is entitled to compensation as below:

Sl. No.	Heads	Awarded by Tribunal	Awarded by this Court
1	Pain and suffering	Rs.20,000/-	Rs.2,00,000/-
2	Medical bills and incurred	Rs.7,91,000/-	Rs.7,91,000/-



	future medical expenses, attendant, conveyance, nourishing food, and other incidental expenses		
3	Loss of income during laid-up period	Rs.20,250/-	Rs.39,750/-
4	Loss of future income on account of permanent disability	Rs.6,36,000/-	Rs.26,71,200/-
5	Loss of Amenities, Life comforts and expectancy of life	Rs.10,000/-	Rs.1,00,000/-
6.	Loss of future medical expenses	--	Rs.50,000/-
	Total	Rs.14,77,250/-	Rs.38,51,950/-
	Rounded off	Rs.14,77,200/-	Rs.38,52,000/-

14. In the result, we pass the following:

ORDER

- a) The appeal filed by the claimant is ***allowed in part.***
- b) The judgment and award passed by the Tribunal is hereby modified. The claimant is entitled to a total



compensation of Rs.38,52,000/- as against Rs.14,77,200/- awarded by the Tribunal along with interest at the rate of 6% per annum.

- c) The Respondent No.2 – Insurance Company is directed to deposit entire compensation amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till the date of realization, within a period of six weeks from the date of receipt of a copy of this judgment, failing which the insurer shall pay interest at the rate of 9% p.a. and the excess interest paid shall be recovered from the responsible person who is responsible for the delay in depositing the compensation amount.

**Sd/-
(R.NATARAJ)
JUDGE**

**Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE**