



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE E.S.INDIRESH

MISCL. FIRST APPEAL NO. 201631 OF 2024 (MV-I)

BETWEEN:

KASHINATH S/O ASHOK HUGAR,
AGE: 23 YEARS, OCC: SERVING IN FLIPKART,
RESIDENT OF HATTARKIHAL, TQ. B. BAGEWADI,
DIST. VIJAYAPURA-586122.

...APPELLANT

(BY SRI SANGANAGOUDA V. BIRADAR, ADVOCATE)

AND:

1. M/S KATARAIA MOVERS,
FIRST FLOOR WARD NO.11,
GHORPADE NAGAR THORANGALLU,
TQ. SANDUR, DIST. BELLARY-583123.
2. THE BRANCH MANAGER,
UNITED INDIA INSURANCE COMPANY LIMITED,
1ST FLOOR SANGAMA BUILDING,
S. S. FRONT ROAD VIJAYAPURA-586101.

...RESPONDENTS

(BY SRI S.S. ASPALLI, ADVOCATE FOR R2;
V/O DTD.19.06.2024 NOTICE TO R1 IS DISPENSED WITH)





THIS MFA IS FILED U/S. 173(1) OF MV ACT, PRAYING TO ALLOW THIS APPEAL AND ENHANCE THE COMPENSATION AS CLAIMED IN THE CLAIM PETITION BY MODIFYING THE JUDGEMENT AND AWARD DATED 04.07.2023 PASSED BY THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE AND MEMBER MACT-V, AT VIJAYAPURA, IN MVC NO.4/2022.

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

CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

ORAL JUDGMENT

1. This appeal is preferred by the claimant assailing the Judgment and award dated 04.07.2023 passed in MVC No.4/2022 on the file of the Principal Senior Civil Judge and MACT-V, at Vijayapura (for short 'the Tribunal') awarding compensation.

2. For the sake of convenience, the parties will be referred to as per their ranking before the Tribunal.

3. The relevant facts for adjudication of the appeal are that, the claimant was riding an unnumbered motorcycle bearing Chassis No.MBLHAW121M4403076 towards Hattarkihal from Vijayapura and at that time, a tanker lorry bearing registration No.KA-35/C-0442 which was being



parked in the middle of the road and as such, the rider of the motorcycle dashed to the Tanker and as a result of the same, the claimant sustained grievous injuries. Hence, the claimant has filed MVC No.4/2022 seeking compensation.

4. On service of notice, the respondent No.2 entered appearance and contested the matter on merits. The Tribunal after considering the material on record by its Judgment and award dated 04.07.2023 awarded compensation of Rs.3,32,000/- along with interest at the rate of 6% per annum from the date of petition till date of realization. The Tribunal has arrived at a conclusion that the claimant has contributed to the negligence to an extent of 70% as to the alleged accident and the driver of the Tanker lorry has contributed to the negligence to an extent of 30%. Feeling aggrieved by the same, the claimant has preferred the present appeal.

5. Sri. Sanganagouda V. Biradar, learned counsel appearing for the appellant contended that, the Tanker lorry was parked in the middle of the road without there being



parking lights and therefore, the Tribunal ought to have fastened the entire liability on the driver of the lorry in question and therefore, sought for interference of this Court. It is also argued by the learned counsel for the appellant seeking enhancement of the compensation. Further, learned counsel places reliance on the Judgment of the Hon'ble Supreme Court in the case of ***Civil Appeal No.7300-7309/2016*** dated 09.02.2018 [***Archit Saini and another Vs. The Oriental Insurance Company Ltd., and others***] and argued that, entire liability is to be fastened on the driver of the lorry as the same was parked in the middle of the lorry.

6. Per contra, Sri.S.S.Aspalli, learned counsel appearing for the respondent-Insurance company argued in support of the impugned Judgment and award passed by the Tribunal.

7. Having taken note of the submission made by the learned counsel appearing for the parties, on careful examination of the material on record would indicate that,



the motorcycle in which the claimant was riding is yet to be registered. It is also forthcoming from the records that the claimant has been charge-sheeted by the police authorities as to the negligence on the part of the claimant. It is also forthcoming that the driver of the lorry also charge-sheeted in the alleged accident. The Tribunal after considering the material on record particularly at Ex.P.7 and the spot panchanama at Ex.P.3, has rightly arrived at a conclusion that the rider of the motorcycle and the driver of the lorry in question have contributed towards the alleged accident. The Tribunal having noticed from the investigation report as per Ex.P.7, has fastened liability on the claimant to an extent of 70%. Though the learned counsel appearing for the appellant submitted that, the lorry in question was parked in the middle of the road, however, on perusal of the spot panchanama would makes it clear that, the rider of the motorcycle ought to avoided collusion with the lorry in question and therefore, I am of the view that both, the rider of the motorcycle and the driver of the lorry in question have contributed to an extent of 50:50 to the alleged accident.



8. Having taken note of the finding recorded by the Tribunal and by looking into the spot mahazar, I am of the view that, the Judgment referred to by the learned counsel for the appellant cannot be made applicable to the facts of the present case.

9 Insofar as the award of compensation is concerned, P.W.2-treating Doctor has stated that, the claimant has suffered disability to an extent of 18-20% as to the limb and the Tribunal has taken 6% disability. However, looking into the nature of the injuries, the Tribunal ought to have taken the disability at 10%. Since the accident is of the year 2021, the monthly income of the claimant would be Rs.14,250/- as per the guidelines of the Karnataka State Legal Services Authority. By applying appropriate multiplier of '18', the claimant is entitled for Rs.3,07,800/- (Rs.14,250/- X 12 X 18 X 10%) towards loss of future income. By looking into the grievous injuries sustained by the claimant and as per the disability certificate at Ex.P.12, the award of compensation as to the remaining heads are as follows:



Sl.No.	Heads of compensation	Amount
1	Loss of future income	Rs.3,07,800/-
2	Pain and sufferings	Rs.50,000/-
3	Medical expenses	Rs.1,15,411/-
4	Conveyance	Rs.20,000/-
5	Loss of income during laid up period	Rs.57,000/-
6	Loss of amenities	Rs.50,000/-
	Total	Rs.6,00,211/-

10. Accordingly, the following order:

ORDER

(i) The appeal is allowed in-part;

(ii) The Judgment and award dated 04.07.2023 passed in MVC No.4/2022 on the file of the Principal Senior Civil Judge and MACT-V, at Vijayapura is hereby modified;

(iii) The contributory negligence of the claimant and the driver of the vehicle in question is saddled in the ratio of 50:50, respectively;

(iv) The claimant is entitled for 50% of the total compensation of Rs.6,00,211/- along with interest at the rate of 6% per annum from the date of petition till the date of realization;

(v) The respondent No.2-Insurance company is liable to pay 50% of the total



compensation of Rs.6,00,211/- along with interest within six weeks from the date of this order;

(vi) As per the order dated 19.06.2024 the claimant is not entitled for interest for the delayed period of 180 days in filing the appeal.

Sd/-
(E.S.INDIRESH)
JUDGE