



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

MISCL. FIRST APPEAL NO.202659 OF 2022 (MV-I)

BETWEEN:

SURYAKANT S/O MALKAPPA YALASHETTE,
AGE:41 YEARS, OCC:AGRICULTURE,
R/O. BHUSNOOR, TQ.ALAND,
DIST.KALABURAGI, NOW SHAKTINAGAR,
KALABURAGI.

...APPELLANT

(BY SRI. BABU H. METAGUDDA, ADVOCATE)

AND:

1. LAXMIPUTRA S/O SHIVASHARANAPPA,
AGE:MAJOR, OCC:NOT KNOWN,
R/O. H.NO.23, UDNOOR ROAD,
SANTOSH COLONY,
KALABURAGI-585 103.
2. THE DIVISIONAL MANAGER,
THE NEW INDIA ASSURANCE
CO. LTD., DIVISIONAL OFFICE,
S.B.TEMPLE ROAD,
SANGAMESHWAR COLONY,
KALABURAGI-585 102.

...RESPONDENTS

(BY SRI. SHARANABASAPPA M. PATIL, ADVOCATE FOR R2,
V/O DATED 23.02.2023, NOTICE TO R1 IS DISPENSED
WITH)



THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, PRAYING TO CALL FOR ENTIRE LOWER COURT RECORDS AND MODIFY THE JUDGMENT AND AWARD DATED 05.04.2022 PASSED BY THE LEARNED III ADDL. SENIOR CIVIL JUDGE AND MACT AT KALABURAGI IN MVC NO.1337/2019 BY ENHANCING THE COMPENSATION AMOUNT AS PRAYED FOR, IN THE INTEREST OF JUSTICE AND EQUITY. B) HOLD BOTH THE RESPONDENTS JOINTLY AND SEVERALLY LIABLE TO PAY THE COMPENSATION TO THE APPELLANT.

THIS APPEAL COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

ORAL JUDGMENT

Though the appeal is posted for admission, with the consent of learned both the parties, the appeal is taken up for final disposal.

2. This appeal is filed by the appellant/claimant challenging the judgment and award dated 05.04.2022 in MVC No.1337/2019 on the file of the III Addl. Senior Civil Judge and Motor Accident Claims Tribunal, Kalaburagi [for short, 'Tribunal'], seeking for enhancement of compensation.



3. The facts of the case of the claimant are that on 29.10.2019 at about 6.30 p.m., near to Dabarabad Patil Petrol Pump and Bhimalli Cross, situated on Aland-Kalaburagi ring road, Kalaburagi, the claimant was proceeding on his Motorcycle bearing No.KA-32/EM-5249. At that time another Motorcycle bearing No.KA-32/EA-6128 (for short, 'the offending vehicle'), being driven by its rider in a rash and negligent manner came and dashed to the Motorcycle of the claimant. As a result, the claimant sustained grievous injuries over his head and other parts of the body. Immediately, he was shifted to Dhanvantri Hospital, Kalaburagi, wherein he was admitted as an inpatient from 29.01.2019 to 08.11.2019. Thereafter, he took treatment as inpatient at S.P. Institute of Neuro Sciences, Solapur from 09.11.2019 to 23.11.2019 and incurred medical expenses of Rs.5,00,000/-. Prior to the accident, the claimant was hale and healthy. He was aged 38 years and earning more than Rs.5,00,000/- per annum by



doing agriculture work in the lands of his family and others on crop share basis. The accident occurred due to rash and negligent riding of the offending vehicle by its rider. The respondent No.1 is owner/insured and the respondent No.2 is insurer of the offending vehicle and hence, they are jointly and severally liable to pay the compensation. Therefore, the claimant filed claim petition before the Tribunal seeking compensation of Rs.25,00,000/- from the respondents.

4. In spite of service of notice, the respondent No.1 did not appear and hence he was placed ex parte before the Tribunal. The respondent No.2 appeared through counsel and filed objections denying the age, occupation and manner of the accident that the accident occurred due to rash and negligent riding of the offending vehicle. The petition averments are denied as false. However, it is contended that the owner of the offending vehicle violated policy conditions and hence,



the insurer is not liable to pay any compensation to the claimant and thus, the respondent No.2 prayed for the dismissal of the petition.

5. In support of the case of the claimant, he got examined himself as PW1. He also examined one Doctor as PW2 and produced the documents at Exs.P1 to P13. But the respondent No.2 did not choose to lead oral evidence or produce any documents.

6. After hearing both the parties and considering the evidence on record, the Tribunal has granted compensation of Rs.6,37,839/- with interest at 6% per annum from the date of petition till the date of realization as under:

Description	Amount
Pain and suffering	Rs.40,000/-
Medical expenditure	Rs.3,53,399/-
Loss of income during treatment	Rs.39,750/-



Loss of future earning, disability	Rs.1,44,690/-
Nutritious, food and attendant charges	Rs.30,000/-
Loss of future amenities and loss of happiness	Rs.30,000/-
Total	Rs.6,37,839/-

7. Being aggrieved by the quantum of compensation, the claimant has come up with the present appeal seeking enhancement of compensation.

8. The learned counsel for the claimant contends that the Tribunal without taking into consideration the material evidence on record much less the injuries suffered by the claimant, awarded inadequate compensation under all the heads and hence, he seeks for enhancement of compensation.

9. On the other hand, learned counsel for the respondent No.2/ insurer of the offending vehicle submits that the compensation awarded by the Tribunal



is just and proper and hence, he prays for dismissal of the appeal.

10. Heard the learned counsel for the claimant and the learned counsel for the respondent No.2 and perused the relevant evidence on record.

11. The contention of the learned counsel for the claimant is that as per the evidence of the doctor, the disability of the claimant to the particular limb is at 20% and 40% and as per the opinion of the doctor – P.W.2 Neurologist, the disability amounts to approximately 50%. However, the learned Tribunal in para No.15 in the impugned judgment has opined that the claimant might have sustained permanent physical disability to an extent of 20% to the whole body. But thereafter calculated the disability at $\frac{1}{3}$ rd of 20%, which comes to 7%, which would prima facie appear not correct. The Tribunal has come up to the conclusion that the physical disability of the claimant is to the



extent of 20% to the whole body and that disability should have been taken into consideration for calculating the compensation payable under the head 'loss of future income'. Hence, the disability of the claimant is considered as 20% to the whole body.

12. As there is no document forthcoming from the claimant in proof of income, the Tribunal has rightly taken into consideration the notional income at Rs.13,250/- p.m. on the basis of the guidelines issued by the KSLSA and taking into consideration the age of the claimant as 47 years at the time of the accident, applicable multiplier to the case on hand is '13' as per the case of ***Sarla Verama and Others Vs. Delhi Transport Corporation and Others*** reported in ***(2009) 6 SCC 121***. Accordingly, the compensation payable under the head 'loss of future earning' would be 20% of Rs.13,250/- x 12 x 13, which amounts to



Rs.4,13,400/-. Hence, a compensation of Rs.4,13,400/- is awarded under the head 'loss of future earning'.

13. Further, considering the evidence of the Doctors and the injuries suffered by the claimant i.e., comminuted fracture of right zygomatic arch, anterior posterior wall of right maxillary sinus lateral wall of right orbit, extending into greater wing of sphenoid on right side, this Court is inclined to enhance the compensation towards 'pain and suffering' from Rs.40,000/- to Rs.60,000/-. Likewise, compensation awarded under the head 'loss of future amenities' is enhanced from Rs.30,000/- to Rs.60,000/-. The compensation awarded under other heads is just and reasonable. Hence, the compensation awarded under those heads would remain intact.

14. On reassessment and re-determination, the computation of compensation is as under:



Description	By this Court
Pain and suffering	Rs.60,000/-
Medical expenditure	Rs.3,53,399/-
Loss of income during treatment	Rs.39,750/-
Loss of future earning, disability	Rs.4,13,400/-
Nutritious, food and attendant charges	Rs.30,000/-
Loss of future amenities and loss of happiness	Rs.60,000/-
Total	Rs.9,56,549/-
Rounded off to	Rs.9,56,600/-

15. It is not in dispute that the respondent No.1 is owner/insured and the respondent No.2 is insurer of the offending vehicle and the insurance policy was valid as on the date of accident. Hence, both the respondents No.1 and 2 are jointly and severally liable to pay the compensation. Moreover, the respondent No.2 is vicariously liable to pay the compensation.

16. In the result, I pass the following:



ORDER

- a) The appeal is ***allowed in part.***
- b) The judgment of the Tribunal is modified.
- c) The claimant is entitled to a total compensation of Rs.9,56,600/- as against the amount of Rs.6,37,839/- awarded by the Tribunal.
- d) The claimant is entitled to enhanced compensation of Rs.3,18,761/- with interest at 6% per annum from the date of petition till realization.
- e) The respondent No.2 - Insurance Company is directed to deposit the compensation amount along with interest at 6% per annum from the date of petition till realization, within a



period of one month from the date of receipt
of copy of this judgment.

- f) The deposit and release of the compensation
amount shall be as per the order of the
Tribunal.

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE

BL
List No.: 1 Sl No.: 29
CT: SB