



CNR: KAHC030059772025

NC: 2026:KHC-K:6066
MFA No. 202126 of 2025

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 31ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE K V ARAVIND

MISCL. FIRST APPEAL NO. 202126 OF 2025 (MV-I)

BETWEEN:

AVINASH S/O AROOD DARAD,
AGE: 25 YEARS, OCC: LABOUR, NOW NIL,
R/O PLOT NO.3, AFZALPUR ROAD,
AMBEDKAR NAGAR, SHARANA SIRASAGI,
KALABURAGI.

...APPELLANT

(BY SRI. SANJEEV PATIL, ADVOCATE)

AND:

1. SIDDALING KASHIRAYA
AGE: MAJOR, OCC: OWNER OF MARUTI SUZUKI
ERTIGA CAR NO.KA-41/P-8853,
R/O KALHANGARGA VILLAGE,
TQ. AND DIST.KALABURAGI-585105.
2. THE DIVISIONAL MANAGER,
UNITED INDIA INSURANCE CO. LTD.,
CENTURY COMPLEX, OPP SANGAM TALKIES,
SUPER MARKET, KALABURAGI - 585104.

...RESPONDENTS

(BY SRI SUDARSHAN M., ADVOCATE FOR R2;
V/O DTD.17.06.2026 NOTICE TO R1 IS DISPENSED WITH)





CNR: KAHC030059772025

NC: 2026:KHC-K:6066
MFA No. 202126 of 2025

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, BY THE ADVOCATE FOR APPELLANT PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 09-09-2024 PASSED BY THE LEARNED PRINCIPAL SENIOR CIVIL JUDGE AND MACT AT KALABURAGI IN MVC NO. 1251/2022 BY ENHANCING THE COMPENSATION AMOUNT PRAYED FOR,

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

CORAM: HON'BLE MR. JUSTICE K V ARAVIND

ORAL JUDGMENT

Heard Sri. Sanjeev Patil, learned counsel appearing for the appellant-claimant, and Sri. Sudarshan M., learned counsel appearing for respondent No.2-Insurer.

2. This appeal is by the claimant in MVC No.1251/2022, assailing the judgment and award dated 09.09.2024 passed by the Principal Senior Civil Judge and MACT, Kalaburagi (for short, "the Tribunal").

3. The claimant filed a petition seeking compensation for the accidental injuries suffered on 01.07.2022 involving a Maruti Suzuki Ertiga Car bearing registration No.KA-41/P-8853. The insurer filed objections denying the petition averments. The claimant examined PW-2-doctor to prove the disability.



CNR: KAHC030059772025

3.1 The Tribunal, considering the evidence of PW-2-doctor, who assessed the permanent disability at 40%, considered 15% as whole body disability for the purpose of compensation. The Tribunal, among other heads, awarded compensation of Rs.6,46,500/-.

4. Sri. Sanjeev Patil, learned counsel appearing for the claimant, submits that the claimant was doing labour work prior to the accident and, in view of the disability and the injuries suffered, he is unable to do any work. It is submitted that the disability at 15% considered by the Tribunal is on the lower side.

4.1 It is submitted that the claimant was an inpatient for 7 days, as he had suffered fractures, undergone surgery with implants, and incurred expenses towards attendant charges, conveyance, food, and nourishment. The compensation awarded under various heads is on the lower side, and it is submitted that the same requires re-assessment.

5. *Per contra*, Sri. Sudarshan M., learned counsel appearing for the insurer, submits that the disability has been considered



NC: 2026:KHC-K:6066
MFA No. 202126 of 2025

CNR: KAHC030059772025

based on the evidence of PW-2 and the disability certificate at Ex.P-9. In the absence of any contrary evidence, the assessment of disability need not be interfered with. It is submitted that the compensation awarded under the other heads is just and reasonable, and no interference is necessary.

6. Considered the submissions made by the learned counsel for the parties and perused the record.

7. To prove the disability, the claimant examined PW-2 and marked the disability certificate as Ex.P-9. According to the doctor, the claimant has suffered the following:

Pain in left arm, weakness of left upper limb, he cannot lift heavy weight with left hand, he cannot do over head work with left hand, left shoulder movements are painful and restricted.

Evidence of sclerosed ends of fracture fragments with gap at fracture site in mid third of left humerus S/o bib-union of mid third shaft of left humerus with implant in situ.

8. Based on the above, the permanent disability is assessed at 40%, whereas the Tribunal considered it at 15%. It is well settled that 1/3rd of the physical disability is considered as whole body disability for the purpose of compensation.



CNR: KAHC030059772025

**NC: 2026:KHC-K:6066
MFA No. 202126 of 2025**

However, in exceptional circumstances, it is for the Court to consider the assessment of functional disability. Though the avocation of the claimant is not proved, the fact that the claimant was doing coolie work cannot be doubted. Having regard to the nature of the injuries, which have affected the left upper limb, restricted the movement of the left shoulder, and affected the lifting of heavy weight, the disability at 15% is on the lower side. Considering the nature of the injuries and the disability suffered, this Court is of the opinion that the functional disability can be considered at 25%. The monthly income, age, and applicable multiplier are not in dispute.

9. The claimant underwent surgery with implants and was an inpatient for a period of 7 days. During the period of treatment and post-discharge, the claimant would have been deprived of earning at least for a period of three months. During the said period, the claimant would have suffered pain and incurred expenses towards attendant charges, conveyance, food, and nourishment. The loss of amenities is undoubted. Considering the above aspects, the compensation is reassessed under the following heads:



CNR: KAHC030059772025

NC: 2026:KHC-K:6066
MFA No. 202126 of 2025

Rs. 14,750/- X 12 X 18 X 25% = Rs.7,96,500/-

Sl. No.	Heads	Amount in Rs.	Amount in Rs.
		Tribunal	This Court
01	Pain and suffering	20,000/-	30,000/-
02	Attendant charges, food and conveyance charges	10,000/-	20,000/-
03	Loss of future income	4,77,900/-	7,96,500/-
04	Medical expenditure	53,600/-	53,600/-
05	Future medical expenses	50,000/-	50,000/-
06	Loss of income during treatment	15,000/-	44,250/- (14,750 x 3)
07	Loss of amenities	20,000/-	20,000/-
	Total	Rs. 6,46,500/-	Rs.10,14,350/-
Enhanced Compensation			Rs. 3,67,850/-

Hence, the claimant is entitled to compensation of Rs.10,14,350/- as against Rs.6,46,500/- awarded by the Tribunal.

10. Accordingly, the following:

ORDER

I. The appeal is ***allowed-in-part***.



CNR: KAHC030059772025

NC: 2026:KHC-K:6066
MFA No. 202126 of 2025

- II. The judgment and award dated 09.09.2024 passed in MVC No.1251/2022 by the Principal Senior Civil Judge and MACT, Kalaburagi, stands **modified**.
- III. The petitioner is entitled to compensation of Rs.10,14,350/- as against Rs.6,46,500/- awarded by the Tribunal, with interest at 6% per annum.
- IV. Respondent No.2-Insurer shall deposit the enhanced compensation within eight weeks from the date of uploading of this judgment.
- V. The release and investment as ordered by the Tribunal are maintained.
- VI. Draw the modified award accordingly.
- VII. No order as to costs.

Sd/-
(K V ARAVIND)
JUDGE

msr
List No.: 1 Sl No.: 22
CT:PK