



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 10TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE K V ARAVIND

MISCL. FIRST APPEAL NO. 203255 OF 2023 (MV-I)

C/W

MISCL. FIRST APPEAL NO. 203037 OF 2023 (MV-D)

IN MFA No. 203255/2023:

BETWEEN:

HANAMANT YALAGURDAPPA TUBAKE,
AGE: 34 YEARS, OCC: WELDING WORK,
RESIDENT OF ARALADINNI,
NIDAGUNDI TALUK
DISTRICT VIJAYAPURA.

...APPELLANT

(BY SRI. SANGANABASAVA B. PATIL, ADVOCATE)



AND:

1. SUNIL GANAPATI JADHAV,
AGE: 44 YEARS, OCC: BUSINESS,
RESIDENT HADAGALI,
TQ. VIJAYAPURA-586101.
2. THE MANAGER LEGAL/CLAIMS,
RELIANCE GENERAL INSURANCE CO. LTD.,
DARBAR SQUARE,
2ND FLOOR,
V.A. KALABURAGI SQUARE,
DESHPANDE NAGA,



DESAI CROSS HUBLI-29.

...RESPONDENTS

(BY SMT. PREETI PATIL MELKUNDI, ADVOCATE FOR R2;
R1 NOTICE IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, PRAYING TO, CALL FOR THE RECORDS AND MODIFY THE JUDGEMENT AND AWARD PASSED BY THE IV ADDITIONAL SENIOR CIVIL JUDGE AND MEMBER,MACT-XV VIJAYAPUR AT VIJAYAPUR IN MVC NO. 1569/2019 DATED 17.02.2022 AND BE PLEASED TO ALLOW THE CLAIM PETITION BY GRANTING THE RELIEF AS PRAYED FAR BY THE APPELLANT.

IN MFA NO. 203037/2023:

BETWEEN:

1. SAVITA W/O VITHAL GONAL,
AGE: 29 YEARS, OCC: HOUSEHOLD WORK,
2. MUTTAPPA VITHAL GONAL,
AGE: 8 YEARS, OCC: STUDENT.
3. AJAY VITHAL GONAL
AGE: 6 YEARS, OCC: NIL,
SINCE APPELLANT NO.2 AND 3 ARE MINORS
RESIDENT BY THEIR MOTHER
APPELLANT NO.1.

ALL ARE RESIDENT OF ARALADINNI,
NIDAGUDNI,
TALUK DISTRICT VIJAYAPURA.

...APPELLANTS

(BY SRI. SANGANABASAVA B PATIL, ADVOCATE)



AND:

1. SUNIL GANAPATI JADHAV,
AGE: 44 YEARS, OCC: BUSINESS,
RESIDENT OF HADAGALI,
TALUK VIJAYAPURA-586101.
2. THE MANAGER LEGAL/CLAIMS
RELIANCE GENERAL INSURANCE CO. LTD.,
DARBAR SQUARE,
2ND FLOOR, V.A.KALABURAGI
SQUARE, DESHPANDE NAGA,
DESAI CROSS, HUBLI-29.

...RESPONDENTS

(BY SMT. PREETI PATIL MELKUNDI, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, PRAYING TO CALL FOR THE RECORDS AND MODIFY THE JUDGMENT AND AWARD PASSED BY THE IV ADDITIONAL SENIOR CIVIL JUDGE AND MEMBER, MACT-XV VIJAYAPUR AT VIJAYAPUR IN MVC NO. 1566/2019 DATED 17.02.2022 FOR SEEKING ENHANCEMENT AND BE PLEASED TO ALLOW THE CLAIM PETITION BY GRANTING THE RELIEF AS PRAYED FAR BY THE APPELLANTS HEREIN.

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

CORAM: HON'BLE MR. JUSTICE K V ARAVIND



ORAL JUDGMENT

Heard Sri.Sanganabasava B. Patil, learned counsel for the appellants, and Smt.Preeti Patil Melkundi, learned counsel for the respondent.

In MFA 203255/2023:

2. This appeal is filed by the claimant seeking enhancement of the compensation awarded under the judgment and award dated 17.02.2022 passed in M.V.C. No.1569/2019.

3. The claimant filed the petition seeking compensation for the accidental injuries suffered in an accident that occurred on 02.11.2019 involving motorcycle bearing registration No. KA-28/EL-8750 and car bearing registration No. KA-28/P-0447 (offending vehicle).

3.1. The insurer filed its objections denying the averments made in the claim petition. The claimant examined PW.4-Doctor to prove the disability. The Tribunal, upon considering the evidence of PW.4-Doctor, who assessed the disability at 10% to 12%, assessed the disability at 3% for the purpose of determining compensation and awarded a total compensation of Rs.2,10,750/- under various heads.



4. Sri Sanganasava B. Patil, learned counsel appearing for the claimant, submits that the claimant was working as a welder and had suffered a fracture of the 5th metacarpal bone and a fracture of the tibia, which was treated with screw fixation. It is submitted that the injuries have resulted in restricted movement of the left knee and that the claimant is unable to stand for a long time. It is further submitted that the disability assessed by the Tribunal at 3% is on the lower side. It is also submitted that the compensation awarded under the other heads is inadequate and requires reassessment.

5. *Per contra*, Smt. Preeti Patil Melkundi, learned counsel appearing for the insurer, submits that the assessment of disability is based on the evidence of PW.4-Doctor. In the absence of any contrary evidence to establish that the assessment of disability is erroneous, no interference is warranted. It is further submitted that the compensation awarded under the other heads is just and reasonable and does not call for any interference.

6. Considered the submissions made by the learned counsel for the parties. Perused the appeal papers and the certified



copies of the documents made available by the appellant-claimant, which have been referred to and relied upon for the purpose of this judgment.

7. To prove the disability, the claimant examined PW.4-Doctor, who assessed the permanent physical disability at 10% to 12%. However, the Tribunal assessed the disability at only 3% for the purpose of determining compensation. As per the evidence of PW.4-Doctor, the claimant had suffered a fracture of the 5th metacarpal bone and a fracture to other parts of the body. It is stated that screw fixation was undertaken for the fracture. PW.4 has further deposed that the claimant suffers from restricted movement of the left knee and is unable to stand on the affected limb for a long time. It is also stated that the claimant had sustained a fracture of the tibia.

7.1. It is a consistently applied principle that one-third of the physical disability is taken as the whole-body disability for the purpose of assessing compensation. Even by applying the said principle, the disability assessed by the Tribunal is on the lower side. However, in exceptional cases, it is for the Court to assess the functional disability. Though the claimant has not produced



evidence to establish his avocation as a welder, the said avocation has not been seriously disputed.

7.2. Having regard to the nature of the injuries and the disability suffered, as spoken to by PW.4-Doctor, this Court is of the view that the said injuries and disability would affect the functional capacity of the claimant in any avocation and would certainly reduce his efficiency, particularly if he is engaged in the avocation of a welder. In such circumstances, the functional disability is required to be assessed independently. Having regard to the evidence on record, this Court finds it appropriate to assess the functional disability at 8%. The notional income and the applicable multiplier are not in dispute. Accordingly, the loss of future income is reassessed as under:

$$\text{Rs.13,250} \times 12 \times 16 \times 8\% = \text{Rs.2,03,520/-}.$$

7.3. The claimant sustained fractures and underwent surgery with screw fixation. He remained an inpatient for a period of six days. The claimant was aged 35 years at the time of the accident. During the course of treatment, the claimant would have suffered pain and would have been deprived of his earnings for a reasonable period. He would also have been



compelled to incur expenses towards conveyance, attendant charges, food, and nourishment.

8. Having regard to the above aspects, the compensation under certain heads requires reassessment.

Sl. No.	Different Heads	Compensation by the Tribunal	Compensation by this Court
1.	Pain and suffering	Rs.30,000/-	Rs.30,000/-
2.	Food, nourishment, special diet	Rs.5,000/-	Rs.10,000/-
3.	Loss of future earning capacity	Rs.76,224/-	Rs.2,03,520/-
4.	Loss of income during laid up period	Rs.26,500/-	Rs.39,750/- (13250 x 3)
5.	Medical expenses and incidental charges	Rs.60,022/-	Rs.60,022/-
6.	Attendant and conveyance charges	Rs.3,000/-	Rs.10,000/-
7.	Loss of amenities	Rs.10,000/-	Rs.20,000/-
Total (rounded off to)		Rs.2,10,746/- Rs.2,10,750/-	Rs.3,73,292/-
Enhanced Compensation		Rs.1,62,542/-	

Hence, the claimant is entitled to a total compensation of Rs.3,73,292/- as against Rs.2,10,750/- as awarded by the Tribunal.



In MFA No.203037/2023:

9. This appeal is filed by the claimants seeking enhancement of the compensation awarded by the Tribunal in M.V.C. No.1566/2019, by the judgment and award dated 17.02.2022.

10. The claimants filed a petition seeking compensation on account of the accidental death of Vithal(deceased) in an accident involving a motorcycle bearing Registration No. KA-28/EL-8750 and a car bearing Registration No. KA-28/P-0447 (offending vehicle). The insurer filed its statement of objections denying the averments made in the claim petition. The Tribunal, based on the evidence on record, awarded compensation of Rs.18,26,200/-.

11. Sri Sanganasava B. Patil, learned counsel appearing for the appellants-claimants, submits that the Tribunal committed an error in not awarding future prospects to the assessed monthly income. He further submits that the compensation awarded towards consortium is on the lower side. Therefore, it is contended that the compensation awarded by the Tribunal requires reassessment.



12. *Per contra*, Smt. Preeti Patil Melkundi, learned counsel appearing for the insurer, submits that the compensation awarded by the Tribunal is just and reasonable and does not warrant any interference.

13. Considered the submissions made by the learned counsel for the parties and perused the appeal papers.

14. The issuance of the insurance policy, the occurrence of the accident, the liability of the insurer, the validity of the policy, the assessment of the monthly income, the determination of the age of the deceased, and the applicable multiplier are not in dispute.

15. The Tribunal committed an error in not awarding future prospects. In view of the law laid down by the Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi and Others, [(2017) 16 SCC 680]***, future prospects are required to be added based on the age of the deceased. The deceased was aged 32 years and, therefore, an addition of 40% towards future prospects is applicable. Accordingly, the same is added to the assessed monthly income.



$$13,250/- + 40\% - 1/3^{\text{rd}} \times 12 \times 16 = \text{Rs.}23,74,400/-$$

16. In view of the decision of the Hon'ble Supreme Court in ***Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram, [(2018) 18 SCC 130]*** each of the claimants is entitled to compensation of Rs.40,000/- under the head "loss of consortium".

17. There is no provision for awarding compensation under the head of "loss of love and affection" in a case of death. Accordingly, the compensation of Rs.50,000/- awarded under the said head is deleted. The award of Rs.20,000/- towards funeral expenses also warrants interference and is modified to Rs.15,000/-. Similarly, the compensation of Rs.10,000/- awarded under the head "loss of estate" requires modification and is enhanced to Rs.15,000/-.

18. In view of the judgment of the Hon'ble Supreme Court in ***Pranay Sethi (supra)***, it is the settled position of law that the compensation awarded under the conventional heads is to be enhanced by 10% every three years. Accordingly, an escalation of 10% is granted to the compensation payable under the conventional heads.



19. Accordingly, the compensation is re-computed as under:

Sl. No.	Heads	Compensation by the Tribunal	Compensation by this Court
1.	Loss of dependency	Rs.16,96,128/-	Rs.23,74,400/-
2.	Loss of consortium (40,000 x 3)	Rs.50,000/-	Rs.1,32,000/- (1,20,000+10%)
3.	Loss of estate	Rs.10,000/-	Rs.16,500/- (15,000/- + 10%)
4.	Loss of love and affection	Rs.50,000/-	----
5.	Funeral expenses	Rs.20,000/-	Rs.16,500/- (15,000/- + 10%)
Total (rounded off to)		Rs.18,26,128/- Rs.18,26,200/-	Rs.25,39,400/-
Enhanced Compensation		Rs.7,13,200/-	

Hence, the claimants are entitled to a total compensation of Rs.25,39,400/- as against Rs.18,26,200/- as awarded by the Tribunal.

20. Accordingly, the following:

ORDER

- i. Both the appeals are ***allowed in-part***.
- ii. The judgment and award dated 17.02.2022 in MVC No.1566/2019 and MVC No.1569/2019



passed by the MACT-XV, Vijayapura, are ***modified.***

- iii. The appellant in MFA No.203255/2023 is entitled to a total compensation of Rs.3,73,292/- as against Rs.2,10,750/- as awarded by the Tribunal.
- iv. The appellants in MFA No.203037/2023 are entitled to a total compensation of Rs.25,39,400/- as against Rs.18,26,200/- as awarded by the Tribunal.
- v. The claimants in MFA No.203037/2023 are not entitled to interest on the enhanced compensation for the delayed period of 417 days vide order dated 10.07.2026.
- vi. The rate of interest, apportionment, deposit and release as ordered by the Tribunal is maintained.
- vii. The respondent No.2/insurer is directed to deposit the compensation amount along with interest, before the Tribunal within a period of eight weeks from the date of uploading of this judgment.
- viii. Draw modified award accordingly.



NC: 2026:KHC-K:5162
MFA No. 203255 of 2023
C/W MFA No. 203037 of 2023

ix. No order as to costs.

Sd/-
(K V ARAVIND)
JUDGE

SDU
LIST NO.: 1 SL NO.: 70
CT:PK