



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 23RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

MISCL. FIRST APPEAL NO.200836 OF 2023 (MV-I)

BETWEEN:

THE MANAGER,
OF NEW INDIA ASSURANCE CO. LTD.,
SHARANABASAPPA APPA ROAD,
KALABURAGI-585 102.

PRESENTLY REPRESENTED BY ITS
THE DIVISIONAL MANAGER,
NEW INDIA ASSURANCE CO. LTD.,
DIVISIONAL OFFICE,
KALABURAGI-585 102.

...APPELLANT

(BY SRI. SUDARSHAN M., ADVOCATE)

AND:

1. AMIT S/O SANJUKUMAR BELURE,
AGED:15 YEARS, OCC:NIL,
R/O. YARBAG, TALUK.BASAVAKALYAN,
DIST. BIDAR.
REP/BY MINOR GUARDIAN LAXMI
W/O SANJUKUMAR BELURE,
AGE:33 YEARS, OCC:HOUSEHOLD,
R/O. YARBAG, TALUK.BASAVAKALYAN,
DIST. BIDAR- 585 328.
2. AKBAR ALI MOHAMMED S/O MD.ABBAD ALI,
AGE:58 YEARS, OCC:BUSINESS,
R/O. 7-96 SRINIVAS NAGAR COLONY
RAMACHANDRAPURAM PATTANCHUR,
DIST. MEDAK, STATE. TELANGANA-502 032.

...RESPONDENTS



(R1 & R2 ARE SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MV ACT, PRAYING TO A) CALL FOR RECORDS IN MVC NO.552/2019 ON THE FILE OF SENIOR CIVIL JUDGE AND MEMBER MACT, AT HUMNABAD. B) SET ASIDE THE JUDGMENT AND AWARD DATED 20.07.2022 PASSED IN MVC NO.552/2019 BY THE SENIOR CIVIL JUDGE AND MEMBER MACT, AT HUMNABAD AND ETC.

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

CORAM: HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

ORAL JUDGMENT

Even though this matter is posted for admission with consent of the learned counsel for the appellant, the matter is taken up for final hearing.

2. Heard the learned counsel for the appellant.
Perused the relevant materials on record.

3. This appeal is filed by the appellant/ insurer respondent No.2 before the Senior Civil Judge & MACT, Humnabad (the Tribunal) in MVC No.552/2019



challenging the quantum of compensation awarded by the Tribunal as per the judgment and award dated 20.07.2022.

4. As per the facts of the case, the respondent No.1 is claimant before the Tribunal, who was aged 12 years. He sustained injuries in the road traffic accident. The claimant being pedestrian met with an accident due to rash and negligence of the driving of the vehicle bearing No.TS 15 UA 1239 (the offending vehicle). The respondents No.1 and 2 before the Tribunal are respectively owner and insurer of the offending vehicle.

5. The contention of the petitioner is that he was aged 15 years and working as milk vendor and earning Rs.10,000/- per month. But as per the contention of the claimant himself, he was minor at the time of accident. The Tribunal took into consideration the age of the claimant as 16 years and considering the monthly income of the claimant as Rs.13,250/- per month,



awarded compensation of Rs.2,86,200/- under the head of loss of future earning capacity.

6. However, as submitted by the learned counsel for the appellant/insurer, the claimant did not examine the doctor to prove that he suffered any disability due to injury sustained in the accident. The wound certificate of the claimant is produced as per Ex.P5. But there is no mention in the impugned judgment of the Tribunal of the injuries suffered by the claimant. Hence, there is no material on record to prove that the claimant suffered any grievous injuries such as fracture. Therefore, there is absolutely to show that the petitioner suffered disability to whole body at 10%.

7. However, as submitted by the learned counsel for the appellant/ insurer, the Tribunal without any basis has taken into consideration the total physical impairment of the claimant at 10% to the whole body. Therefore, the matter requires to be remitted back to the



Tribunal for consideration afresh regarding any disability of the claimant due to the injuries sustained in the accident.

8. Moreover, in spite of service of notice, neither the claimant nor the owner of the offending vehicle have chosen to appear and contest the appeal. As discussed herein above, the matter requires reconsideration by the Tribunal. Hence, the appeal deserves to be allowed and the matter deserves to be remitted back to the Tribunal for consideration afresh.

9. In the result, I proceed to pass the following:

ORDER

The appeal is allowed.

Consequently, the judgment and award dated 20.07.2022 of the Senior Civil Judge & MACT, Humnabad in MVC No.552/2019 is hereby set aside.



The matter is remitted back to the Tribunal for considering the matter afresh giving opportunity to both the parties to adduce oral and documentary evidence, if they so intend.

The insurer/ appellant being the respondent No.2 is directed to appear before the Tribunal on 22.04.2026.

The amount if any deposited before the Tribunal shall be refunded to the appellant/insurer forthwith.

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE