



CNR: KAHC030096752022

NC: 2026:KHC-K:5864
MFA No. 201965 of 2023
C/W MFA No. 200157 of 2023
MFA No. 200165 of 2023

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 28TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE K V ARAVIND

MISCL. FIRST APPEAL NO. 201965 OF 2023 (MV-I)

C/W

MISCL. FIRST APPEAL NO. 200157 OF 2023 (MV-I)

MISCL. FIRST APPEAL NO. 200165 OF 2023 (MV-I)

IN MFA No. 201965/2023:

BETWEEN:

VINOD S/O SIDDAPPA MADIVAL,
AGE: 34 YEARS, OCC: PRIVATE SERVICE,
R/O. MANUR COLONY, BAGALKOT ROAD,
VIJAYAPURA.

...APPELLANT

(BY SRI. SANGANAGOUDA V. BIRADAR, ADVOCATE)

AND:

1. AHMEDABAD BENGAL ROADWAYS PVT. LTD.
VILL BINOLA, GURGAON,
HARYANA-122001.
2. THE BRANCH MANAGER,
NEW INDIA ASSURANCE CO. LTD.,
HANAMASHETTY BUILDING,
GURUKUL ROAD,
VIJAYAPURA-586101.





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...RESPONDENTS

(BY SRI SUDARSHAN M., ADVOCATE FOR R2;
V/O DTD.13.06.2023 NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
PRAYING TO ALLOW THE COMPENSATION PETITION AGAINST
RESPONDENT NO.2 AND SET ASIDE THE JUDGMENT AND
AWARD DATED 15.07.2022 PASSED BY THE COURT OF PRL..
SENIOR CIVIL JUDGE AND MEMBER, MACT-V, VIJAYAPURA IN
MVC NO. 111/2017.

IN MFA NO. 200157/2023:

BETWEEN:

SHILPARANI W/O MANJUNATH MADIVAL,
AGE: 36 YEARS, OCC: TAILORING WORK,
R/O MANUR COLONY, BAGALKOT ROAD,
VIJAYAPURA.

...APPELLANT

(BY SRI. SANGANAGOUDA V BIRADAR, ADVOCATE)

AND:

1. AHMEDABAD BENGAL RAOD WAY PVT LTD,
VILL BINOLA, GURGAON,
HARAYANA-122001.
2. THE BRANCH MANAGER,
NEW INDIA ASSURANCE CO. LTD.,
HANAMASHETTY BUILDING,
GURUKUL ROAD,
VIJAYAPURA-586101.

...RESPONDENTS

(BY SRI SUDARSHAN M. ,ADVOCATE FOR R2;
V/O DTD.20.07.2026 NOTICE TO R1 IS DISPENSED WITH)



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THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, PRAYING TO ALLOW THE COMPENSATION PETITION AGAINST RESPONDENT NO.2 AND SET ASIDE THE JUDGMENT AND AWARD DATED 15.07.2022 PASSED BY THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE AND MEMBER MACT-V, VIJAYAPURA IN MVC NO.95/2017.

IN MFA NO. 200165/2023:

BETWEEN:

BASAVANTAPPA S/O BASAPPA MADIVALAR,
AGE: 65 YEARS, OCC: COOLIE WORK,
R/O NO. 114, SECTOR NO. 28,
NAVANAGAR, BAGALKOT.

...APPELLANT

(BY SRI. SANGANAGOUDA V. BIRADAR, ADVOCATE)

AND:

1. AHMEDABAD BENGAL ROADWAYS PVT. LTD.,
VILL BINOLA, GURUGAON,
HARAYANA-122001.
2. THE BRANCH MANAGER,
NEW INDIA ASSURANCE CO. LTD.,
HANAMASHETTY BUILDING,
GURUKUL ROAD,
VIJAYAPURA-586101.

...RESPONDENTS

(BY SRI SUDARSHAN M. ,ADVOCATE FOR R2;
V/O DTD.20.07.2026 NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, PRAYING TO ALLOW THE COMPENSATION PETITION AGAINST RESPONDENT NO. 2 AND SET ASIDE THE JUDGMENT AND AWARD DATED 15.07.2022 PASSED BY THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE AND MEMBER, MACT - V, VIJAYAPURA IN MVC NO 211/2017.



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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.Sanganagouda V. Biradar, learned counsel for the appellants and Sri.Sudarshan M., learned counsel for respondent.

2. These appeals arise out of the common judgment and award dated 15.07.2022 passed in MVC No.95/2017, MVC No.111/2017, and MVC No.211/2017 by the Prl. Senior Civil Judge & MACT-V, Vijayapura (for short, "the Tribunal"), involving three claim petitions arising out of the same accident.

3. The claimants filed petitions seeking compensation for the accidental injuries sustained in the accident that occurred on 04.08.2016 involving a car bearing registration No.KA-28/N-3412 and a truck bearing registration No.NL-01/Q-0244 (offending vehicle). The insurer filed its statement of objections denying the averments made in the claim petitions and contended that the driver of the offending vehicle was not holding a valid and effective driving licence.



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3.1. To prove the disability, the doctor was examined as PW.4. Upon considering the evidence of the doctor, the Tribunal awarded compensation of Rs.1,53,100/- in MVC No.95/2017, Rs.44,900/- in MVC No.111/2017, and Rs.76,800/- in MVC No.211/2017, together with interest at the rate of 6% per annum. The Tribunal, having found that the driving licence produced by the driver was fake, held that the owner of the offending vehicle was liable to pay the compensation.

4. Sri Sangnagouda V. Biradar, learned counsel appearing for the claimants, submits that the validity of the insurance policy is not in dispute. It is contended that, even if the driving licence is found to be fake, it is a case of absence of a valid driving licence, which warrants the application of the principle of "pay and recover."

4.1. It is further submitted that, in MVC No.95/2017, the claimant was engaged in tailoring work and had undergone surgery with implantation of implants for the fractures sustained. According to the learned counsel, the Tribunal has assessed the permanent disability at 5%, though the doctor had assessed the disability of the left upper limb at 18% to



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20%, and therefore, the assessment is on the lower side. It is further submitted that the compensation awarded under the other heads is also inadequate.

4.2. It is submitted that, in MVC No.111/2017, the claimant was working as a coolie and, on account of the injuries sustained, has suffered permanent disability. The global compensation of Rs.25,000/-, along with Rs.19,900/- towards medical expenses, awarded by the Tribunal is stated to be inadequate.

4.3. It is further submitted that, in MVC No.211/2017, the claimant was engaged as coolie and had sustained a fracture of the posterior acetabulum of the right hip joint along with anemia. The Tribunal has assessed the permanent disability at 6%, which, according to the learned counsel, is on the lower side. It is also submitted that, considering that the claimant was treated as an inpatient for two days, the compensation awarded under the various heads is inadequate.

5. Sri Sudarshan M., learned counsel appearing for the insurer, submits that, in MVC No.95/2017 and MVC



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No.211/2017, the Tribunal has assessed the disability based on the evidence of PW.4–Doctor. In the absence of any contra evidence, the finding recorded by the Tribunal on the basis of the evidence on record does not warrant interference. He submits that the compensation awarded under all the heads is just and reasonable and calls for no interference.

5.1. Insofar as MVC No.111/2017 is concerned, it is submitted that, in the absence of any evidence to establish loss of earning capacity, the lump sum compensation awarded by the Tribunal is just and reasonable and does not require reconsideration.

5.2. It is further submitted that, unless the terms and conditions of the policy are complied with, the mere issuance of an insurance policy cannot fasten liability on the insurer. Therefore, the Tribunal was justified in directing the owner of the offending vehicle to pay the compensation. It is further submitted that, even if this Court directs the insurer to pay the compensation, liberty may be reserved to the insurer to recover the same from the owner of the insured vehicle.



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

7. The common dispute in all the three appeals pertains to the direction issued by the Tribunal fastening the liability to pay compensation on the owner of the offending vehicle. The Tribunal has recorded a finding that the driving licence produced by the driver of the insured vehicle was fake. Once the driving licence is found to be fake, it is a case of absence of a valid driving licence. Where the issuance of the insurance policy is admitted and the insurer contends no liability on the ground of violation of the policy conditions, the principle of pay and recover would apply.

7.1. In the present case, the issuance and validity of the insurance policy is not in dispute. In such circumstances, instead of directing the owner of the offending vehicle to pay the compensation on the ground of violation of the policy conditions, the Tribunal ought to have directed the insurer to pay the compensation with liberty to recover the same from the



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owner of the offending vehicle. To that extent, the judgment and award passed by the Tribunal require modification.

8. Now coming to the quantum of compensation in MVC No.111/2017, the Tribunal, in the absence of any evidence to establish permanent disability, and having regard to the medical expenses incurred and the period of treatment, awarded a global compensation of Rs.25,000/- and a sum of Rs.19,900/- towards medical expenses, aggregating to Rs.44,900/-.

8.1. The claimant has produced the wound certificate, CT scan report, and other medical records. As per Ex.P5, the claimant sustained injuries in the accident. Further, Ex.P11 discloses that the claimant was shifted from one hospital to another for better treatment, where he was treated as an inpatient for two days. In the absence of any evidence to establish permanent disability, compensation towards loss of future income cannot be awarded. However, having regard to the material available on record, the global compensation of Rs.25,000/- awarded by the Tribunal is on the lower side and warrants enhancement.



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Accordingly, the same is enhanced to Rs.50,000/-. The sum of Rs.19,900/- awarded towards medical expenses is retained. Consequently, the total compensation is recomputed as under:

$$\text{Rs.50,000/-} + \text{Rs.19,900/-} = \mathbf{\text{Rs,69,900/-}}.$$

9. In MVC No.95/2017, the claimant has pleaded that she was engaged in tailoring work. As per Ex.P10-wound certificate, she sustained injuries over the left arm and a sutured wound over the right frontal/parietal region. The X-ray reveals a fracture of the shaft of the left humerus. The doctor assessed the permanent disability of the left upper limb at 18% to 20%. The Tribunal, however, considered the functional disability at 5% for the purpose of assessing compensation.

9.1. Having regard to the nature of the injuries sustained and the claimant's avocation as a tailor, this Court considers it appropriate to assess the functional disability at 10%. The claimant underwent surgery with implants and remained as an inpatient for a period of two days. Undoubtedly, during the period of hospitalization and the post-discharge recuperation, the claimant would have suffered pain and agony, incurred



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expenses towards attendant charges, conveyance, food and nourishment, and would also have been deprived of her earnings for a period of three months. Further, the claimant may have to undergo another surgery for the removal of the implants. Considering the above aspects, the compensation awarded by the Tribunal under various heads is reassessed as under:

$$\text{Rs.}8,750/- \times 12 \times 17 \times 10\% = \text{Rs.}1,78,500/-$$

Sl. No.	Heads of compensation	Amount awarded by the Tribunal	Amount awarded by this Court
1.	Pain and suffering	Rs.20,000/-	Rs.40,000/-
2.	Medical bills	Rs.23,220/-	Rs.23,220/-
3.	Attendant, food and nourishment and incidental expenses	Rs.10,000/-	Rs.20,000/-
4.	Loss of income during laid up period	Rs.600/-	Rs.26,250/- (8750 x 3)
5.	Loss of future income	Rs.89,250/-	Rs.1,78,500/-
6.	Loss of amenities	Rs.10,000/-	Rs.10,000/-
Total		Rs.1,53,070/- Rs.1,53,100/-	Rs.2,97,970/-
Enhancement		Rs.1,44,870/-	

10. In MVC No.211/2017, the claimant has pleaded that he was engaged in coolie work. As per the evidence of PW.4-Doctor, the claimant sustained a comminuted fracture of the posterior acetabulum of the right hip joint and was also found



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to be suffering from anemia and diabetes mellitus. The doctor assessed the permanent disability of the left lower limb at 18% to 20%. The Tribunal, however, considered the functional disability at 6% for the purpose of assessing compensation.

10.1. Considering the nature of the fracture, the treatment undergone by the claimant, and his avocation, this Court is of the view that the functional disability assessed by the Tribunal at 6% is on the lower side. Accordingly, the functional disability is reassessed at 10% for the purpose of determining compensation.

$$\text{Rs.}8,750/- \times 12 \times 5 \times 10\% = \text{Rs.}52,500/-$$

10.2. Considering the pain and suffering endured by the claimant, the incidental expenses incurred, and the loss of income during the period of hospitalization and post-discharge recuperation, this Court is inclined to reassess the compensation under the following heads:



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Sl. No.	Heads of compensation	Amount awarded by the Tribunal	Amount awarded by this Court
1.	Pain and suffering	Rs.20,000/-	Rs.20,000/-
2.	Medical bills Attendant, food & nourishment and incidental expenses	Rs.14,659/-	Rs.24,659/-
3.	Loss of income during laid up period	Rs.600/-	Rs.17,500/- (8750 x 2)
4.	Loss of future income	Rs.31,500/-	Rs.52,500/-
5.	Loss of amenities	Rs.10,000/-	Rs.10,000/-
Total		Rs.76,759/- Rs.76,800/-	Rs.1,24,659/-
Enhancement		Rs.47,859/-	

11. In the light of the above observations, the direction issued by the Tribunal fastening the liability to pay the compensation on the owner of the offending vehicle is modified. The insurer is directed to pay the compensation in the first instance, with liberty reserved to recover the amount so paid from the owner of the offending vehicle, in accordance with law.

12. In the light of the above, the following:

ORDER

(i) The appeals are ***allowed in-part***.



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- (ii) The judgment and award dated 15.07.2022 in MVC No.95/2017, MVC No.111/2017 and MVC No.211/2017 passed by Prl. Senior Civil Judge & MACT-V, Vijayapura, is **modified**.
- (iii) The appellant in MFA No.200157/2023 is entitled to a total compensation of Rs,69,900/- as against Rs.44,900/- as awarded by the Tribunal.
- (iv) The appellant in MFA No.201965/2023 is entitled to a total compensation of **Rs.2,97,970/-** as against Rs.1,53,100/- as awarded by the Tribunal.
- (v) The appellant in MFA No.200165/2023 is entitled to a total compensation of **Rs.1,24,659/-** as against Rs.76,800/- as awarded by the Tribunal.
- (vi) The rate of interest, deposit and release as ordered by the Tribunal is maintained.



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(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. However, liberty is reserved to recover the paid compensation from the owner of the vehicle.

(viii) Draw modified award accordingly.

(ix) No order as to costs.

Sd/-
(K V ARAVIND)
JUDGE

SDU
LIST NO.: 1 SL NO.: 27
CT:PK