



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 16TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MRS. JUSTICE P. SREE SUDHA

MISCL. FIRST APPEAL NO.200743/2021(MV-I)

BETWEEN:

MALLAPPA S/O NINGAPPA PUJARI,
AGE: 39 YEARS, OCC: AGRICULTURE & COOLIE,
R/O. BRAHMADEVARAMADU, TQ. SINDAGI,
NOW RESIDING AT JAIL DARGA,
VIJAYAPURA-586 101.

...APPELLANT

(BY SRI BAPUGOUDA SIDDAPPA, ADVOCATE)

AND:

1. SRI MAHANTAPPA S/O BHIMANNA KORWAR,
AGE ABOUT 44 YEARS, OCC: OWNER OF AUTO,
R/O. BIRAL HISSA, TQ. JEWARGI,
DIST. KALABURAGI-585 310,
(OWNER OF TOM-TOM AUTO BEARING
NO.KA-32/C-3708).

2. THE BRANCH MANAGER,
THE ORIENTAL INSURANCE COMPANY LTD.,
S.S. FRONT ROAD, BIDARI COMPLEX,
VIJAYAPURA-586 101.

...RESPONDENTS

(BY SMT. PREETI PATIL MELKUNDI, ADVOCATE, FOR R2;
R1-SERVED)

Digitally signed
by SUMITRA
SHERGAR
Location: HIGH
COURT OF
KARNATAKA



THIS MFA IS FILED U/S 173(1) OF THE MOTOR VEHICLES ACT, 1988, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 14.12.2020 PASSED IN MVC NO.879/2016 ON THE FILE OF THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE AND CJM AND MOTOR ACCIDENT CLAIMS TRIBUNAL NO.V, VIJAYAPURA BY ENHANCING THE COMPENSATION AMOUNT AS CLAIMED BY THE APPELLANT.

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

CORAM: HON'BLE MRS. JUSTICE P. SREE SUDHA

ORAL JUDGMENT

(PER: HON'BLE MRS. JUSTICE P. SREE SUDHA)

1. Heard the learned counsel for the appellant-claimant and learned counsel for respondent No.2 – Insurance Company. Respondent No.1 though served with notice, remained unrepresented.

2. This appeal is filed by the claimant against the judgment and award dated 14.12.2020 passed by the Principal Senior Civil Judge and M.A.C.T.-V, Vijayapura [for short 'Tribunal'] in MVC No.879/2016 seeking enhancement of compensation.



3. The injured claimant aged 35 years, met with an accident on 23.10.2015 and sustained fracture of right shaft femur, right thigh and fracture of right knee. He filed a claim petition before the Tribunal seeking compensation of Rs.18,00,000/- from the respondents. The Tribunal after considering the entire evidence on record, awarded the compensation of Rs.2,51,077/- with interest at 6% per annum from the date of petition till realization and directed respondent No.2-Insurance Company to deposit the compensation amount, with liberty to recover the same from respondent No.1 – owner of the vehicle.

4. Aggrieved by the said award, the appellant-claimant has preferred this appeal, mainly contending that the compensation awarded by the Tribunal under all the headings is inadequate. It is contended that, claimant was aged 35 years and earning Rs.12,000/- per month by doing Agricultural and Coolie work, but the Tribunal assessed the same at Rs.5,000/-. It is further contended



that though Doctor - PW4 assessed 25% physical disability to the right lower limb, the Tribunal considered the same only at 8%. Thus, he requested for enhancing the compensation in his favour.

5. Admittedly, it is the case of the disability suffered by the claimant. The claimant has sustained fracture of right shaft femur. As per Exs.P11 and P14 he took treatment as inpatient for a period of 45 days. As per Ex.P48 – Disability Certificate issued by PW4 – Doctor, the claimant has sustained 25% disability to right lower limb. Claimant states that he was aged 35 years and doing Agriculture work. As the claimant has sustained one grievous injury, the Tribunal has rightly considered the disability at 1/3 of 25% *i.e.*, 8% for the purpose of calculation of loss of future earning capacity, which needs no interference by this Court. Though the claimant states his income as Rs.15,000/- per month, but not produced any income proof. As the accident is of the year 2015, as per the chart issued by the Karnataka State Legal Services



Authority, this Court deems it appropriate to reassess the income of the claimant at Rs.8,000/- per month. As the claimant was aged 35 years at the time of accident, the appropriate multiplier applicable to his age group is '16'. Accordingly, the claimant is entitled for loss of future earning as under:

$$\text{Rs.8,000/-} \times 12 \times 16 \times 8\% = \text{Rs.1,22,880/-}$$

6. The claimant was treated as inpatient for 45 days and it is stated that he could not attend any work for several days. Therefore, looking to the injury sustained and the period of hospitalization, this Court finds it reasonable to award an amount of Rs.40,000/- for pain and suffering, Rs.30,000/- for loss of amenities, Rs.30,000/- for transportation, extra nourishment and attendant charges and Rs.24,000/- for loss of income during laid up period. However, the amount awarded by the Tribunal under the head medical expenses at Rs.1,22,877/- and an amount of Rs.25,000/- for removal implant needs no interference.



7. The compensation awarded by the Tribunal is modified as under:

Sl. No.	Heads	Award by the Tribunal	Award by this Court
1	Pain and suffering	Rs.30,000/-	Rs.40,000/-
2	Medical Expenses	Rs.1,22,877/-	Rs.1,22,877/-
3	Loss of future earning capacity	Rs.43,200/-	Rs.1,22,880/-
4	Transportation, extra nourishment and attendant charges	Rs.10,000/-	Rs.30,000/-
5.	Loss of amenities	Rs.20,000/-	Rs.30,000/-
6.	Loss of income during laid up period	--	Rs.24,000/-
7.	Future medical expenses	Rs.25,000/-	Rs.25,000/-
Total		Rs.2,51,077/-	Rs.3,94,757/-
There will be enhancement of Rs.1,43,680/-			



8. In the result, the following order is passed:

(i) Appeal is ***allowed in part.***

(ii) The claimant is entitled for the enhanced compensation of Rs.1,43,680/- with interest at 6% per annum from the date of petition till the date of realization.

(iii) Respondent No.2 – Insurance Company is directed to deposit the aforesaid compensation amount along with interest within one month from the date of this judgment, with liberty to recover the same from respondent No.1 on due process of law.

(iv) On such deposit, the claimant is permitted to withdraw the entire amount along with interest accrued on it.

sd/-
(P. SREE SUDHA)
JUDGE

SBS
List No.: 1 Sl No.: 40
CT: AK