



CNR: KAHC010418212023

NC: 2026:KHC:36123
MFA No. 5607 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 5607 OF 2023

(MV-I)

BETWEEN:

1. SRI. MAHESH
S/O BASAVARAJ
AGED ABOUT 38 YEARS
C/O MADDURAMMA HOUSE
BHUVANESHWARI NAGAR COLONY
NEAR SUBRAMANYAPURA
POST OFFICE, BENGALURU – 560 061.

ALSO AT:-
No.05, 1ST MAIN, 2ND CROSS
GANGAPPA GARDEN
MAGADI ROAD
BENGALURU – 560 023.



...APPELLANT

(BY SRI UDAYA KUMAR R L, ADVOCATE)

AND:

1. THE MANAGING DIRECTOR
B M T C SHANTHINAGAR
DOUBLE ROAD
BENGALURU – 560 027.

...RESPONDENT

(BY SRI NAGARAJA K, ADVOCATE)



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THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED:04.10.2021 PASSED IN MVC No.7329/2019 ON THE FILE OF THE VII ADDITIONAL SMALL CAUSE JUDGE AND ACMM, MEMBER, MACT-3, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed by the appellant/claimant seeking enhancement of compensation awarded in judgment and award dated 04.10.2021 passed in MVC No.7329/2019 by the VII Additional Small Causes Judge and Member, MACT-3, Bengaluru.

2. Even though the appeal is listed today for admission, it is taken up for disposal with the consent of learned counsel for appellant and learned counsel for respondent.

3. The appellant made a claim petition praying to award compensation for the injuries sustained by her in a



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road traffic accident occurred on 23.09.2019 contending that the accident occurred due to rash and negligent driving of the driver of BMTC bus bearing KA-57-F-0757. The Tribunal after recording the evidence, appreciated the evidence, assessed the compensation and awarded compensation under various heads as under:

Sl.No.	Heads	Amount in (Rs.)
01.	Loss of future income	1,72,800.00
02.	Pain and agony	20,000.00
03.	Medical expenses	12,464.00
04.	Loss of amenities and nutritious food	15,000.00
05.	Attendant charges and conveyance	10,000.00
06.	Loss of income during laid up period	27,000.00
07.	Future medical expenses	15,000.00
	Total	2,72,264.00 rounded off to Rs.2,72,300.00

4. The Tribunal also awarded interest @ 6% p.a. from the date of petition till realization excluding the interest on future medical expenses of Rs.15,000/-. The Tribunal directed the respondent – Corporation to deposit the award amount with interest. The claimant seeking



enhancement of compensation has filed the present appeal.

5. Heard learned counsel for the appellant and learned counsel for respondent.

6. Learned counsel for appellant would contend that claimant has sustained fracture of right capitellum and right lateral epicondyle fracture and he has undergone surgery. PW.2 – Doctor has assessed his disability and stated that claimant is having 37% disability of right upper limb and 13% to the whole body. The Tribunal has erred in taking the disability at 10%. He further submits that accident is of the year 2019 and for the said year as per the chart prepared by the Karnataka State Legal Services Authority, the notional income is fixed at Rs.14,000/- and the same has to be taken into consideration. He further submits that considering the injuries sustained, the compensation awarded for pain and suffering, loss of amenities and loss of income during laid up period are on



lower side and requires to be enhanced. With this he prayed to allow the appeal.

7. Learned counsel for respondent would contend that considering the evidence of PW.2 – Doctor and the disability to the upper limb, the Tribunal has rightly taken disability at 10%. The compensation awarded on all heads is just and proper and there are no grounds for enhancement.

8. Having heard the learned counsels, the Court has perused the judgment and award.

9. Ex.P7 is the wound certificate and as per the same, the claimant has sustained the following injuries:

(i) Lacerated wound over right olecranon active bleed +

(ii) Deformity right elbow.

(iii) Tenderness over lateral condylar and radial head

CT scan shows –



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- (i) Right elbow comminuted displaced fracture lateral epicondyle peapibulum humorous.
- (ii) Fracture olecranon process
- (iii) Chip fracture head of radius

X-ray right elbow shows – fracture lateral epicondyle peapibulum humorous.

10. PW.2 is the Doctor who has assessed the disability of the claimant at 13%. The claimant is a coolie. Considering the evidence of Doctor – PW.2, the functional disability of the claimant is to be taken at 12%.

11. The accident occurred on 23.09.2019 and for the said year, the notional income fixed by the Karnataka State Legal Services Authority is Rs.14,000/- and the same is to be taken as against Rs.9,000/- taken by the Tribunal. The Tribunal has rightly applied multiplier '16' since the claimant is aged 34 years. In view of the above, the loss of future income is calculated as under:

$$\text{Rs.14,000} \times 12 \times 16 \times 12\% = \text{Rs.3,22,560/-}$$



12. Considering the injuries and fractures noted supra, the compensation awarded by the Tribunal for pain and suffering in a sum of Rs.20,000/- requires to be enhanced to Rs.60,000/- and loss of amenities awarded in a sum of Rs.15,000/- requires to be enhanced to Rs.30,000/-. The Tribunal has awarded loss of income during laid up period for three months taking income at Rs.9,000/- in a sum of Rs.27,000/-. Now the income taken is Rs.14,000/- and loss of income during laid up period comes to Rs.42,000/- (Rs.14,000 x 3 months). The Tribunal has rightly awarded compensation towards medical expenses, attendant charges and conveyance and future medical expenses. In view of the above, the claimant is entitled to compensation under various heads as under:

Sl.No.	Heads	Amount in (Rs.)
01.	Loss of future income	3,22,560.00
02.	Pain and suffering	60,000.00
03.	Medical expenses	12,464.00
04.	Loss of amenities	30,000.00
05.	Attendant charges and conveyance	10,000.00



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06.	Loss of income during laid up period	42,000.00
07.	Future medical expenses	15,000.00
	Total	4,92,024.00

13. Considering the above aspects, the claimant is entitled to total compensation of Rs.4,92,024/- as against Rs.2,72,300/- with interest @ 6% p.a. from the date of petition till realization. Consequently, the claimant is entitled to enhanced compensation of Rs.2,19,724/- (Rs.4,92,024 – Rs.2,72,300)with interest @ 6% p.a. from the date of petition till realization. Respondent is liable to pay the said enhanced compensation with interest.

14. In view of the above, the following:

ORDER

- i) The appeal is allowed in part.
- ii) The appellant/claimant is entitled to enhanced compensation of Rs.2,19,724/- with interest @ 6% p.a. from the date of petition till realization.



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- iii) Respondent shall deposit the enhanced amount with interest within a period of six weeks from this day, failing which, it is liable to pay interest @ 9% p.a. from this day till payment of enhanced compensation amount.
- iv) Appellant is entitled to release of entire enhanced compensation.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

DKB
List No.: 1 SI No.: 23
Ct.sm