



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO.4621 OF 2024 (MVI)

BETWEEN:

SRI. ABHISHEK K @ ABHISHEK
S/O. KRISHNA,
NOW AGED ABOUT 20 YEARS,
RESIDING AT:
ROAD JAKKASANDRA VILLAGE
AND POST, MARALAVADI HOBLI,
KANAKAPURA TALUK,
RAMANAGARA DISTRICT - 562 112.

...APPELLANT

(BY SRI. GIRIMALLAIAH, ADVOCATE)

AND:

1. SMT. SAVITHA
W/O. VENKATESH,
MAJOR IN AGE, (AGE OF R-1
NOT KNOWN TO APPELLANT),
NO.214, AGRAHARA KOTE,
KANAKAPURA TOWN,
KANAKAPURA TALUK,
RAMANAGARA DISTRICT - 562 117.
2. THE MANAGER
RELIANCE GENERAL INSURANCE
COMPANY LTD., NO. 28,





5TH FLOOR, CENTINARY BUILDING
& EAST WING, M.G. ROAD,
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI. HARSHITH B, ADVOCATE FOR R1;
SRI. B. PRADEEP, ADVOCATE FOR R2)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 01.06.2024 PASSED IN MVC NO.238/2021 ON THE FILE OF THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE RAMANAGARA, SIT AT KANAKAPURA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

ORAL JUDGMENT

This appeal is filed by the appellant/claimant under Section 173(1) of Motor Vehicles Act, 1988 challenging the judgment and award dated 01.06.2024 passed in MVC No.238/2021, by the II Additional District and Sessions Judge, Ramanagara, sit at Kanakapura, for enhancing the compensation.



2. Heard the arguments of the learned counsel for the parties. The ranks of the parties are retained as per Tribunal for the sake of convenience.

3. Brief facts of the case are that, injured claimant aged 17 years met with an accident on 11.02.2021 at about 10.00 a.m., while going with his friend towards Churchifalls in a pulsar Motorcycle bearing Reg.No.KA-05-HQ-4652 in between Narayanapura and Keballi, the access motor cycle bearing Reg. No.KA-05-KY-6260 driving in a rash and negligent manner and dashed to the back side of the pulsar vehicle, which dashed to the tree and fell in a pit. In view of that, the petitioner sustained injuries. He filed claim petition claiming compensation of Rs.25,00,000/-. Tribunal considered entire evidence on record granted an amount of Rs.7,05,906/- with interest at the rate of 6% per annum from date of claim petition until realization of the entire award amount. Aggrieved by the said order, he preferred an appeal.



4. Learned counsel for the appellant mainly contended that he sustained grievous injuries. He was also doing agriculture work and earning Rs.15,000/- per month. Loss of future prospects of life, marriage prospects are not granted and the amount granted under other heads is meagre. Tribunal has taken his income as Rs.4,000/- and his functional disability is to be taken as 100%. He was in the hospital for a period of 36 days in total, as per Exs.P11 to Exs.P13. It is further stated that no amount is granted under the head loss of future earning capacity and thus, requested for enhancement of the compensation.

5. Petitioner was aged 17 years and he has not filed any income proof as she met with an accident in the year 2021. Therefore, as per the chart prepared by the Karnataka State Legal Services Authority, his notional income is to be taken as Rs.15,000/- per month. He was aged 17 years and the relevant multiplier is '18'.



6. As per Ex.P6-the wound certificate, he sustained following injuries:

"Left frontal comminuted depressed with frontal contusions for which he under went left FTP craniotomy and evacuation of left from Hemotoma".

He also examined Neuron and Spine Surgeon as PW.2 and he stated that petitioner sustained following injuries:

"i) Left Frontal comminuted depressed fracture with left frontal hematoma.

Repeat CT scan brain shows increased size in bleed. Patient underwent surgery on 11.02.2021-left fronto-temporo-parietal craniotomy and evacuation of left frontal haematoma. Complaints of no vision left eye, right spastic hemiparesis. Referred him to Consultant-Neuro Rehabilitation. He assessed the combined neuro behavioural like easy irritability, feels low an depressed at times, forgetfulness-forget names, conversations, feels tired most of the time, headache almost every day. Has blindness in the left eye. Has right hemiparesis with range restriction and painful shoulder. Needs help for almost all the ADL (activities of daily living) and unable to open and close the fingers of the right hand. He has difficulty in speech, slurring is



present and the cognitive disability as 49.55%."

But the Tribunal has not considered the disability and not granted any amount under the head 'loss of future earning capacity'.

7. Learned counsel for the respondent has stated that the petitioner himself was cross-examined before the Tribunal and requested this Court to consider 1/3rd of disability assessed by the Tribunal.

8. Admittedly, disability was assessed for the whole body and considering the medical evidence and the age of the claimant, this Court finds it reasonable to take his disability as 25%. As per the judgment of this Court in the case of ***New India Assurance Company Limited v. Abdul S/o Mehaboob Tahasildar*** in ***MFA No.103807/2016***, it was held that when the disability is more than 20%, he is entitled for future prospectus.



Loss of future earning capacity comes to Rs.15,000/- +
 $40\% \times 12 \times 18 \times 25\% = \mathbf{Rs.11,34,000/-}$. He was in the
hospital for a period of 36 days.

9. Considering the nature of injuries, his age,
period of hospitalization and other relevant factors, this
Court finds it reasonable to grant an amount of
Rs.75,000/- for pain and suffering, **Rs.50,000/-** for loss
of amenities, Tribunal has granted Rs.1,00,000/- for
attendant charges, food and nourishment and he might
not have attended any other work atleast for 3 months. He
is entitled for loss of income during laid up period. So
 $\text{Rs.15,000/-} \times 3 \text{ months} = \mathbf{Rs.45,000/-}$ granted towards
loss of income during laid up period. Towards medical
expenses the Tribunal granted Rs.4,43,906/- as per
Exs.P29 to Exs.P157 and the same is confirmed by this
Court.

10. Admittedly, the driver of the offending vehicle
has no valid driving licence, insurance company was



exonerated by the Tribunal. In view of the law laid down by the Hon'ble Supreme Court in the case of ***Pappu and Ors Vs. Vinod Kumar Lamba and Another¹***, this Court finds it reasonable to invoke the principle of "pay and recovery".

11. Thus in all, compensation awarded by this Court are as below:

Pain and Suffering	:	Rs.	75,000/-
Loss of Amenities	:	Rs.	50,000/-
Towards transportation, extra nourishment and attendant charges	:	Rs.	1,00,000/-
Loss of income during laid up period	:	Rs.	45,000/-
Medical expenses	:	Rs.	4,43,906/-
Loss of future earning capacity	:	Rs.	11,34,000/-
TOTAL	:	Rs.	18,47,906/-

¹ 2018 (3) SCC 308



12. Hence, the appellant-claimant is entitled for a total compensation of **Rs.18,47,906/-** along with interest at the rate of 6% p.a. from the date of petition till its realization.

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

ORDER

- i. The appeal is ***allowed*** in part.
- ii. The judgment and award dated 01.06.2024 passed in MVC No. 238/2021 on the file of the II Additional District and Sessions Judge, Ramanagara, Sit at Kanakapura is modified.
- iii. The claimant is entitled to a sum of **Rs.18,47,906/-** along with interest at the rate of 6% p.a., from the date of petition till the date of realization, instead of Rs.7,05,906/- granted by the Tribunal.
- iv. Respondent No.1/Insurance Company is directed to deposit the compensation of **Rs. 18,47,906/-** along with the interest at the rate of 6% p.a. within one month from the date of this order.



- v. Respondent No.1/Insurance Company is at liberty to recover the same from the owner of the offending vehicle by due process of law.
- vi. On such deposit, petitioner is permitted to withdraw the entire amount along with interest accrued on the same.

Sd/-
(P SREE SUDHA)
JUDGE

PSJ
List No.: 1 SI No.: 45