HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JUNE, 2025

BEFORE

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

MISCELLANEOUS FIRST APPEAL NO. 657 OF 2023 (MV-I)

BETWEEN:

MAHADEVAIAH,
S/O. LATE DESHIRAJA
AGED ABOUT 64 YEARS,
R/AT. ANNURU VILLAGE,
GUNDLUPET TALUK,
CHAMARAJANGARA DISTRICT,
PIN- 571 111.

...APPELLANT

(BY SRI. SANATH KUMARA K. M., ADVOCATE)

AND:

1. RAMSHAD K. S.,
   S/O. RAZAK MAJOR,
   KALATHIL, AMBALAVAYAL POST,
   EDAKKAL BALAVADIKKAVALA
   NENMENI, WAYANAD,
   KERALA STAGE,
   PIN- 673 121.

2. THE DIVISIONAL MANAGER
   HDFC ERGO GENERAL INSURANCE CO. LTD.,
   2ND FLOOR,
   MYSORE TRADE CENTRE,
   OPPOSITE TO KSRTC BUS STAND,
   B. N. ROAD, MYSORE,
   PIN - 571 001.

...RESPONDENTS

(BY SRI. D. VIJAYA KUMAR, ADVOCATE FOR R2;

Digitally signed by AASEEFA PARVEEN
Location: HIGH COURT OF KARNATAKA

V/O. DATED 12.03.2025,
NOTICE TO R1 DISPENSED WITH)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 22.02.2022 PASSED IN MVC NO.272/2019 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, GUNDLUPET, 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 DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

Heard Sri.Sanath Kumara.K.M, learned counsel for the appellant who appears physically before this Court. Also heard Sri.D.Vijaya Kumar, learned counsel for respondent No.2 who appears through video conference.

2. Challenge in this appeal is the order that is rendered by the Motor Accident Claims Tribunal, Gundlupet in MVC No.272/2019 dated 22.02.2022.

3. On the ground that he sustained grievous injuries in a road traffic accident and became permanently and completely disabled, the appellant filed a petition

claiming compensation of Rs.21,00,000/- in total. The Tribunal through the impugned order awarded a sum of Rs.2,54,500/- as compensation and aggrieved by the same, the present appeal is preferred.

4. Learned counsel for the appellant submits that the appellant sustained grievous injuries in a road traffic accident. The appellant was working as mason and was earning substantial amount i.e., Rs.25,000/- p.m. But due to the injuries sustained he is unable to do any work. The Tribunal without considering the income of the appellant as projected by him, took the notional income as Rs.10,000/- p.m. and awarded meager sum as compensation under the head loss of future earnings. Learned counsel also states that the Tribunal did not award justifiable sum as compensation under the head loss of earnings during laid up period. Learned counsel also states that the Tribunal did not award any compensation towards loss of amenities in life. Learned counsel thereby seeks to enhance the compensation.

5. Learned counsel for respondent No.2 on the other hand states that the appellant failed to produce any proof in respect of his occupation and earnings as on the date of accident. Learned counsel however, states that the amount which is considered by the Karnataka State Legal Services Authority as notional income for the relevant period can be taken into consideration.

6. It is not in dispute that the accident occurred in the year 2019. The Karnataka State Legal Services Authority, for settlement of claims, is taking the notional income as Rs.14,000/- p.m. for the relevant period. Therefore, this Court considers desirable to take the same into consideration for the purpose of calculating the compensation. Without disturbing other parameters, the compensation which the appellant is entitled to receive under the head loss of future earnings, on notional income being taken as Rs.14,000/- p.m. is as under:

Notional monthly income	Rs.14,000/-
Annual income	Rs.1,68,000/-
On applying appropriate multiplier '7'	Rs.11,76,000/-
Permanent physical disability being 12% in respect of whole body, loss of future earnings is	Rs.1,41,120/-

7. The Tribunal through the impugned order awarded a sum of Rs.1,00,800/- only under the head loss of future earnings. Thus the enhancement will be Rs.40,320/- (Rs.1,41,120-Rs.1,00,800).

8. Undisputedly the appellant sustained fracture of tibia and proximal fibula fracture right and other simple injuries. By the material that is brought on record it is clear that the appellant underwent surgery and took treatment as inpatient for 11 days. Having considered the nature of injuries sustained, this Court is of the view that the sum that is awarded as compensation under the head loss of earnings during laid up period i.e., Rs.20,000/- is on lower side.

9. This Court is of the view that the appellant would not have attended his normal pursuits atleast for a period of 3 months. Thus the loss of earnings during laid up period comes to Rs.42,000/-. Thus the enhancement will be Rs.22,000/- (Rs.42,000-Rs.20,000). Also this Court is of the view that the appellant is entitled to a sum of Rs.10,000/- under the head loss of amenities in life. Thus the compensation which the appellant is entitled to in addition to the sum that is awarded as sum by the Tribunal is Rs.72,320/- (Rs.40,320 + Rs.22,000 + Rs.10,000).

10. In the light of the discussion that went on supra the appeal is therefore, disposed of with the following:

ORDER

(i) The appeal is allowed in part.

(ii) The compensation that is granted by the Motor Accident Claims Tribunal, Gundlupet through orders in MVC No.272/2019 dated 22.02.2022 is enhanced by Rs.72,320/-.

(iii) The enhanced sum shall carry interest at the rate of 6% p.a. from the date of petition till the date of deposit.

(iv) However, the appellant is not entitled for any interest for the period of delay of 229 days on the enhanced sum as per orders in I.A.No.1/2023 dated 12.03.2025.

(v) Respondent No.2 is directed to deposit the enhanced sum within a period of 8(eight) weeks from the date of receipt of certified copy of this order.

(vi) On such deposit, the appellant is permitted to withdraw the entire amount.

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

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CT:TSM
List No.: 1 Sl No.: 31