



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 28TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCL. FIRST APPEAL NO.201021 OF 2022 (MV-I)

BETWEEN:

MAHANTESH S/O GHALEPPA,
AGE: 24 YEARS, OCC: DRIVER, NOW NIL,
R/O VILLAGE NELGI, TQ. BHALKI,
DIST. BIDAR-584 101.

...APPELLANT

(BY SRI. BABU H. METAGUDDA, ADVOCATE)

AND:

1. SANTOSH S/O NAGASHETTY BIRADAR,
AGE: 39 YEARS, OCC: BUSINESS,
VILLAGE NELGI, TQ. BHALKI,
DIST. BIDAR-584 101.
2. THE DIVISIONAL MANAGER,
NATIONAL INSURANCE CO. LTD.,
SUPER MARKET, KALABURAGI-585 102.

...RESPONDENTS

(BY SRI. SHARANABASAPPA M. PATIL, ADV. FOR R2;
V/O DTD. 06.02.2024, NOTICE TO R1 D/W)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE
MOTOR VEHICLES ACT, PRAYING TO ALLOW THIS APPEAL AND
MODIFY THE JUDGMENT AND AWARD DATED 31-05-2021
PASSED IN MVC NO.335/2018 BY THE SENIOR CIVIL JUDGE



AND ADDL. MACT AT BHALKI. AND ENHANCING THE COMPENSATION FROM RS.2,38,120/- WITH 6% INTEREST TO RS.14,00,000/- WITH 12% INTEREST.

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

CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE C M JOSHI)

Heard learned counsel for the appellant and learned counsel for respondent No.2-Insurance Company.

2. Though this appeal is slated for admission, with the consent of both the learned counsel, it is taken up for final disposal.

3. Being aggrieved by the judgment and award passed in MVC No.335/2018 dated 31.05.2021 by the Senior Civil Judge & Addl. MACT, Bhalki (for short, 'the Tribunal') the petitioner is before this Court seeking enhancement of compensation.



4. The petitioner that on 22.12.2017 while returning along with his brother on motorcycle bearing No.KA-38/U-5634 as a pillion rider met with an accident due to the negligence of the rider of the motorcycle. The petitioner sustained fracture of the left tibia and fibula, fracture of left second toe and fracture of left 3rd and 4th metatarsal. He was admitted to Guru Nanak Hospital, Bidar and for 5 days took treatment. The criminal case was registered by the jurisdictional police for negligent driving against the rider of the motorcycle. Claiming that the petitioner was aged about 20 years and was working as a driver, earning Rs.7,000/- per month and batta of Rs.100/- per day, filed the petition for compensation before the Tribunal.

5. The petition was resisted by the insurance company on the grounds that the terms and conditions of the policy were violated by the rider of the motorcycle and that the policy does not cover the risk of the pillion rider.



6. Appropriate issues were framed by the Tribunal and the petitioner was examined as PW.1 and one witness was examined as PW.2 and Exs.P1 to P11 were marked. The respondents did not examine any witnesses.

7. After hearing both sides, the Tribunal hold that the petitioner is entitled for compensation from the respondent No.2 under different heads as below:

Sl. No.	Heads of compensation	Amount
1.	Pain and sufferings.	Rs.5,000/-
2.	Medical expenses.	Rs.64,000/-
3.	Conveyance, attendant charges and Nourishment.	Rs.5,000/-
4.	Loss of future earning capacity on account of permanent disabilities.	Rs.1,59,120/-
5.	Amenities and unhappiness.	Rs.5,000/-
Total		Rs.2,38,120/-

8. Being aggrieved by the same, the petitioner is before this Court in appeal.

9. The learned counsel appearing for the petitioner would submit that the compensation awarded by the Tribunal under the head of future loss of earning on



account of the disability is on the lower side since the Tribunal erred in assessing the notional income and the disability in a proper way. It is submitted that the compensation at the head of pain and suffering, amenities in life, and loss of income during laid up period was also not considered by the Tribunal appropriately.

10. The learned counsel appearing for the respondent-Insurance Company defends the impugned judgment stating that the compensation awarded by the Tribunal is just, fair and reasonable.

11. A careful perusal of the records would reveal that the petitioner had sustained the above mentioned injuries and though he stated that he was working as a driver, no cogent evidence was placed on record. However, accepting the avocation of the petitioner as driver, if we see the records, the ocular evidence of the PW.2 that the petitioner had sustained 45% disability to the left lower limb is held to contribute about 17% of the functional disability of the petitioner.



12. The notional income was considered by the Tribunal in the absence of cogent evidence regarding income. The guidelines issued by KSLSA for the purpose of settlement of disputes before the Lok-Adalath prescribe a notional income of Rs.10,250/- for the year 2017. In umpteen number of judgments, this Court has held that the guidelines issued by the KSLSA are in general conformity with the wages fixed under the Minimum Wages Act, and therefore they can be adopted as the notional income. Hence, the compensation under the head of loss of future income on account of disability is calculated as $\text{Rs.10,250/-} \times 12 \times 17 \times 17\% =$ **Rs.3,55,470/-** by adopting multiplier '17' for the age of 27 years.

13. Consequently, the compensation under the head of loss of income during the laid up period is calculated for 3 months, which comes to $\text{Rs.13,250/-} \times 3 =$ **Rs.39,750/-**.



14. The compensation awarded by the Tribunal under the head of pain and suffering at Rs.5,000/- and loss of amenities at Rs.5,000/- are also on the lower side. The compensation under the head pain and suffering is enhanced to **Rs.40,000/-** and compensation under the head of loss of amenities is enhanced to **Rs.35,000/-**.

15. Rest of the compensation awarded by the Tribunal does not require any enhancement.

16. Therefore, the petitioner is entitled for compensation under the following heads.

Sl. No.	Heads	Amount
1.	Pain and sufferings	Rs.40,000/-
2.	Medical expenses	Rs.64,000/-
3.	Conveyance, attendant charges and Nourishment.	Rs.5,000/-
4.	Loss of future earning capacity on account of permanent disabilities.	Rs.3,55,470/-
5.	Amenities and unhappiness.	Rs.35,000/-
6.	Loss of income during laid up period	Rs.39,750/-
Total		Rs.5,39,220/-
Less the amount awarded by the Tribunal		Rs.2,38,120/-
Enhancement		Rs.3,01,100/-



17. In the result, the appeal deserves to be allowed in-part. Hence, the following:

ORDER

- (i) The appeal is allowed in part.
- (ii) The appellant/petitioner is entitled for a sum of Rs.3,01,100/- in addition to the compensation awarded by the Tribunal, along with interest at 6% p.a. from the date of petition till its deposit.
- (iii) The respondent No.2-Insurance company is directed to deposit the compensation amount within a period of six weeks from the date of this order.
- (iv) Rest of the order of the Tribunal remain unaltered.

Sd/-
(C M JOSHI)
JUDGE