HC-KAR

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 17TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV

AND

THE HON'BLE MRS JUSTICE K.G.SHANTHI

MISCELLANEOUS FIRST APPEAL NO. 102262 OF 2024

(MV-I)

BETWEEN:

SANGANNA S/O SHIVAYOGEPPA KERUR
AGE. 53 YEARS,
OCC. BUSINESS,
R/O. SEC.29, PLOT NO.22/B
NAVANAGAR BAGALKOT
TQ.DIST. BAGALKOT-587103

...APPELLANTS

(BY SMT. SHRUTI NEELOPANT, ADVOCATE FOR
SRI. AVINASH MALIPATIL, ADVOCATE)

Digitally signed by MANJANNA E
Location: High Court of Karnataka, Dharwad Bench

AND:

THE DIVISIONAL CONTROLLER
NWKRTC, DIVISION OFFICER
NAVANAGAR BAGALKOT
TQ.DIST. BAGALKOT-587103

...RESPONDENTS

(BY SRI. M.K. SOUDAGAR, ADVOCATE)

THIS MFA IS FILED U/S.173 (1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 08.05.2024 IN MVC NO.46/2024 PASSED BY THE II ADDITIONAL SENIOR CIVIL JUDGE AND MACT BAGALKOT AND TO ENHANCE THE COMPENSATION ALREADY GRANTED TO THE APPELLANT IN THE INTEREST OF JUSTICE.

THIS APPEAL HAVING BEEN HEARD AND RESERVED ON 04.06.2026 COMING ON FOR PRONOUNCEMENT OF JUDGMENT, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE S.SUNIL DUTT YADAV
AND
THE HON'BLE MRS. JUSTICE K.G.SHANTHI

CAV JUDGMENT

(PER: THE HON'BLE MRS. JUSTICE K.G.SHANTHI)

1. Aggrieved by the judgment and award dated 08.05.2024, passed in MVC No.46/2024 by the II Additional Senior Civil Judge and MACT, Bagalkot, awarding compensation of Rs.2,60,310/- with interest at 6% per annum, the claimant has preferred the present appeal seeking enhancement of compensation.

2. The facts, in brief, are that on 13.07.2023 at about 11.30 p.m., the claimant was travelling in a car bearing Registration No.KA-29/N-8870 near Kusugal village on Hubballi–Navalagund Highway. At that time, a NWKRTC bus bearing Registration No.KA-29/F-1170, driven in a rash and negligent manner, dashed against the car resulting in the claimant sustaining injuries. Immediately after the accident, he was shifted to KIMS Hospital, Hubballi and thereafter treated as inpatient from

14.07.2023 to 18.07.2023 at Vasanad Hospital, Bagalkot, where he underwent surgery for fracture of the right proximal humerus.

3. The claimant contended before the Tribunal that he was aged about 53 years, carrying on wholesale business under the name and style "Sri Veerabhadreshwar Agency" and earning Rs.50,000/- per month. It was his case that due to the injuries sustained in the accident, he suffered permanent disability, pain and discomfort, resulting in loss of earning capacity and enjoyment of life.

4. The respondent-Corporation entered appearance and contested the claim petition. It was contended that the accident occurred solely due to the negligence of the driver of the car in which the claimant was travelling and that there was no negligence on the part of the driver of the bus. It was further contended that the compensation claimed was excessive and not supported by evidence.

5. Based on the pleadings and evidence on record, the Tribunal held that the accident occurred due to the rash and negligent driving of the driver of the NWKRTC bus

and awarded compensation of Rs.2,60,310/- under various heads.

6. Learned counsel for the appellant contends that the compensation awarded by the Tribunal is grossly inadequate. It is submitted that the claimant suffered a fracture of the right proximal humerus, underwent surgery and continues to experience pain and stiffness in the shoulder. It is further contended that the Tribunal has failed to properly appreciate the evidence of PW-2, the Doctor, who assessed permanent disability and has also failed to award any compensation towards loss of amenities.

7. *Per contra,* learned counsel for the respondent/Corporation supports judgment and award passed by the Tribunal and submits that the compensation awarded is just and reasonable having regard to the nature of injuries sustained by the claimant and prays for dismissal of appeal.

8. Heard the arguments and perused the material available on record.

9. The point that would arise for our consideration are :

(i) Whether the claimant has made out a case for enhancement of compensation?

(ii) What Order?

10. This Court answered the above points as follows:

Point No.(i) : Partly in affirmative

Point No.(ii) : As per the final order for the following:

REASONS

11. ***Point No.(i)*** : The Tribunal has relied upon the FIR, complaint, spot mahazar, IMV report and charge sheet marked at Exs.P1 to P6. The charge sheet has been filed against the driver of the offending NWKRTC bus. Admittedly, the respondent has neither challenged the charge sheet nor produced any independent evidence to establish the contributory negligence on the part of the driver of the car. Therefore, the finding recorded by the Tribunal regarding negligence does not call for interference.

12. The claimant has examined the treated Doctor as PW-2 and produced the disability certificate at Ex.P10. The evidence of PW-2 discloses that the claimant suffered a comminuted proximal humerus fracture of the right shoulder and underwent surgery involving fixation with implants. The Doctor assessed the disability to the extent of 10% of whole body. On careful examination of Ex.P10, reveals that the assessment substantially pertains to the disability of the upper limb. The Doctor in his evidence admitted that the fracture has united.

13. The records further disclose that the claimant is carrying on wholesale business and is the proprietor of "Sri Veerabhadreshwar Agency". The nature of work carried on by the claimant does not indicate complete loss of earning capacity. So, this Court finds no reason to interfere with the assessment of disability at 3% made by the Tribunal.

14. The Tribunal has adopted the notional income of Rs.15,000/- per month and applied the multiplier of '11' by looking into the age of the claimant and 15% of his

income have also been added with respect to future prospects. We find the computation made by the Tribunal for sum of ***Rs.68,310/-*** under the head of "loss of future earning capacity" to be proper and in accordance with settled principles and therefore the same deserves to be affirmed.

15. Insofar as medical expenses are concerned, the Tribunal has awarded a sum of ***Rs.1,02,000/-*** based on the medical bills produced by the claimant. Though it is contended that a larger amount was spent towards treatment, no material is placed on record to substantiate expenditure beyond what has already been accepted by the Tribunal. So, no interference is warranted under the said head.

16. The Tribunal has awarded a sum of Rs.50,000/- towards pain and suffering. The records indicate that the claimant sustained a fracture of the proximal humerus, underwent surgery and remained hospitalized for several days. Considering the nature of injuries and the treatment undergone, the compensation awarded under the said

head appears to be on the lower side. In our considered view, an additional sum of Rs.30,000/- deserves to be awarded towards "pain and suffering". Consequently, the compensation under the said head stands enhanced from Rs.50,000/- to ***Rs.80,000/-.***

17. The evidence of PW-2 further indicates that the claimant continues to experience pain, stiffness and difficulty in carrying out activities involving the right shoulder. Though the fracture has united, the residual discomfort and restriction in movement cannot be ignored.

18. The Tribunal has not awarded any compensation towards loss of amenities. Having regard to the age of the claimant, the nature of injuries sustained and the continuing discomfort experienced by him, this Court is of the opinion that a sum of ***Rs.30,000/-*** deserves to be awarded under the head of "loss of amenities".

19. The Tribunal has awarded Rs.25,000/- towards transportation, nourishment, conveyance and attendant charges. The claimant underwent surgery and continued follow-up treatment even after discharge from the

hospital. It is reasonable to infer that the required assistance during the period of recovery. Therefore, an additional sum of Rs.10,000/- is awarded under the head of transportation, nourishment, conveyance and attendant charges, thereby enhancing the amount under the said head from Rs.25,000/- to ***Rs.35,000/-***. The Tribunal has awarded **Rs.15,000/-** under the head of "loss of earning during laid up period" which warrants no interference by this Court.

20. Consequently, the compensation payable to the claimant is re-assessed as follows:

Under the head of:	**Amount (Rs.)**
Loss of future earning capacity	Rs.68,310/-
Medical expenses	Rs.1,02,000/-
Pain and suffering	Rs.80,000/-
Loss of amenities	Rs.30,000/-
Transportation, nourishment, conveyance and attendant charges.	Rs.35,000/-
Loss of income during laid-up period	Rs.15,000/-
Total	**Rs.3,30,310/-**

21. Thus, as against the compensation of Rs.2,60,310/- awarded by the Tribunal, the claimant is entitled to a

total compensation of Rs.3,30,310/-. Accordingly point No.(i) is answered partly in the affirmative.

22. **Point No.(ii) :** In view of the finding on point No.(i), this Court proceeds to pass the following:

ORDER

(i) The appeal is **allowed in part**.

(ii) The judgment and award dated 08.05.2024, passed in MVC No.46/2024 by the II Additional Senior Civil Judge and MACT, Bagalkot, stands modified.

(iii) The claimant shall be entitled to total compensation of **Rs.3,30,310/-** as against Rs.2,60,310/- awarded by the Tribunal.

(iv) The enhanced compensation shall carry interest at 6% per annum from the date of petition till realization.

(v) The respondent-Corporation shall deposit the enhanced compensation with accrued interest within six weeks from the date of receipt of a certified copy of this judgment.

(vi) On deposit, the enhanced compensation shall be released in favour of the claimant on due identification.

(vii) Draw modified award accordingly.

Sd/-
(S.SUNIL DUTT YADAV)
JUDGE

Sd/-
(K.G.SHANTHI)
JUDGE

VB
CT:ANB
List No.: 1 Sl No.: 1