



**IN THE HIGH COURT OF KARNATAKA, AT DHARWAD**

**DATED THIS THE 24<sup>TH</sup> DAY OF MARCH, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE RAVI V.HOSMANI**

MISCELLANEOUS FIRST APPEAL NO. 103062 OF 2015 (MV)

**BETWEEN:**

SHRI PIRAJI S/O BHAVAKU VETAL,  
AGE: 33 YEARS, OCC: MASON, NOW NIL,  
R/O: VITTAL GALLI, KALLEHOL,  
TQ:& DIST: BELAGAVI.

...APPELLANT

(BY SRI HARISH S. MAIGUR, ADVOCATE)

**AND:**

1. SHRI YALLAPPA DATTU KAMBLE,  
AGE: MAJOR, OCC: BUSINESS,  
R/O: ALATAGE VILLAGE,  
TQ: AND DIST: BELAGAVI.
2. THE MANAGER,  
HDFC ERGO GENERAL INSURANCE COMPANY LIMITED,  
HAVING ITS DIVISIONAL OFFICE AT 2<sup>ND</sup> FLOOR, NO-25/1,  
BUILDING NO-2, SHANKAR NARAYAN BUILDING,  
M.G. ROAD, BENGALURU.

...RESPONDENTS

(BY SRI SK KAYAKAMATH, ADVOCATE FOR R2;  
NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, PRAYING TO MODIFY THE JUDGMENT AND AWARD PASSED IN MVC NO.1225/2014 ON THE FILE OF THE XI ADDITIONAL DISTRICT JUDGE AND ADDITIONAL MACT BELAGAVI, AT BELAGAVI DATED 31.07.2015 BY ALLOWING THIS APPEAL WITH COSTS IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: THE HON'BLE MR. JUSTICE RAVI V.HOSMANI





**ORAL JUDGMENT**

Challenging judgment and award dated 31.07.2015 passed by XI Addl. District Judge and Addl. MACT, Belagavi ('**Tribunal**', for short) in MVC no.1225/2014, this appeal is filed.

2. Sri Harish S.Maigur, learned counsel for appellant submitted, appeal was by claimant for enhancement of compensation. It was submitted that on 07.05.2014 at 03:30 p.m., when claimant was riding motorcycle bearing no.KA-22/Y-2023 from Belagavi towards Kallehol, driver of Car no.KA-22/N-5799 drove it in rash and negligent manner and dashed against motorcycle. In accident, claimant sustained grievous injuries and despite treatment at BIMS Hospital, Belagavi, he did not recover fully and sustained loss of earning capacity. Therefore, he filed claim petition against owner and insurer of car under Section 166 of Motor Vehicles Act, 1988.

3. Despite service of notice, owner did not appear and was placed *ex-parte*. Only insurer opposed claim petition on all grounds. Even pillion rider in said accident had sustained injuries and had filed claim petition. Both were clubbed together. Based



on pleadings, Tribunal framed issues and recorded evidence. Claimants along with Dr.Satish D.Patil deposed as PWs1 to 4 and got marked Exhibits P1 to P51. Insurer did not lead oral evidence, but got marked copy of insurance policy as Ex.R1.

4. On consideration, Tribunal held accident had occurred due to rash and negligent driving of car by its driver, car was insured with insurer and claimant was entitled for global compensation of ₹20,000/- with 6% interest from insurer. Dissatisfied with same, appeal was filed.

5. It was submitted, Tribunal was not justified in awarding global compensation disbelieving material on record. It was submitted, treatment records such as discharge summary, OPD slip, wound certificate, X-ray report, disability certificate, photographs, medical bills and X-rays got marked by claimant would indicate claimant sustained muscle deep lacerated wound 10 x 5 cm as well as another lacerated wound 6 x 5 cm on right leg. Same had led to formation of ugly scar and fusion of skin affecting loss of earning capacity of claimant who was working as a mason. It was submitted, claimant took inpatient treatment for 36 days and produced medical bills for ₹3,500/-. Therefore,



Tribunal ought to have awarded separate compensation towards pain and suffering, loss of income during laid up period, incidental expenses and towards disfigurement. On said grounds sought for allowing appeal.

6. On other hand, Sri SK Kayakamath, learned counsel for respondent no.2 - insurer opposed appeal. It was submitted, based on appreciation of material, Tribunal passed award granting global compensation and same does not call for enhancement.

7. From above only point that arises for consideration is:

'Whether claimant is entitled for enhancement of compensation as sought?'

8. Same is answered 'partly in affirmative' for following reasons.

9. At outset, there is no dispute about occurrence of accident and claimant sustaining injuries on account of rash and negligent driving of insured vehicle by its driver. Tribunal granted global compensation of ₹20,000/-. It noted from wound



certificate that claimant had sustained two lacerated wounds over right leg measuring 10 x 5 cm and 6 x 5 cm without sustaining any fracture. Though Dr.Satish D.Patil had issued disability certificate assessing 20% disability to right lower limb, taking note of fact that injuries were simple and claimant had not sustained any fracture, disbelieved disability certificate. However, wound certificate would describe lacerated injuries as grievous. Considering size and depth of injuries along with wound certificate, discharge card, photographs, medical bills, it is seen that claimant sustained grievous injuries, took inpatient treatment a period of 36 days and sustained skin depression and fusion at two points on his right leg and his right leg leaving ugly scars. Considering same, Tribunal ought to have assessed compensation under each of heads separately.

10. Taking note of injuries, it is found appropriate to award **₹15,000/-** towards pain and suffering. Considering claimant took inpatient treatment for a period of 36 days in Government Hospital, it is found appropriate to award sum of **₹15,000/-** towards incidental expenses. Claimant has produced medical bills for **₹3,500/-** which is awarded. Claimant has



sustained disfigurement. Considering age and occupation, it is found fit to award sum of **₹15,000/-** towards disfigurement. However, finding of Tribunal that injuries sustained is not established to have resulted in permanent physical disability or loss of earning capacity is sustained. Taking note of duration of inpatient period, claimant is awarded **₹10,000/-** towards loss of income during laid up period. Consequently, claimant is held entitled for total compensation of **₹58,500/-** as against ₹20,000/- awarded by Tribunal. Same shall carry interest at 6% from date of claim petition till deposit. Respondent no.2 - insurer is directed to deposit same before Tribunal within six weeks. On deposit, Tribunal is directed to release entire compensation in favour of claimant.

11. In terms of above, **appeal is allowed in part.**

**Sd/-**  
**(RAVI V.HOSMANI)**  
**JUDGE**

CLK  
CT:VP  
LIST NO.: 1 SL NO.: 16