



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 2884 OF 2023

(MV-I)

BETWEEN:

1. SRI. RAMESH. S
S/O. SHANKARAPPA
AGED ABOUT 48 YEARS
R/O. MUDDAPPANAPALYA VILLAGE
HANUMANAHALLI POST
DODDERI HOBLI
MADHUGIRI TALUK.

...APPELLANT

(BY SRI. SATHISHA T, ADVOCATE)

AND:

1. SRI. GUJJARAPPA
S/O. HIMMAIAH. G
AGED ABOUT 42 YEARS
R/O. WARD No. 18
GURUVADERAHALLI VILLAGE
MADHUGIRI TOWN
TUMAKURU DISTRICT.
2. THE MANAGER
UNITED INDIA INSURANCE COMPANY LTD.,
JAYADEVA COMPLEX
B.H. ROAD, TUMAKURU.

NOW REPRESENTED BY:
THE REGIONAL MANAGER
UNITED INDIA INSURANCE COMPANY LTD.,





REGIONAL OFFICE
A-1, 5TH FLOOR, KRUSHI BHAVAN
NEAR HUDSON CIRCLE
BENGALURU-560 001.

...RESPONDENTS

(BY SRI B S KRISHNA, ADVOCATE FOR R2
V/O DATED 23.05.2023, NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 19.02.2022 PASSED IN MVC No.134/2021 ON THE FILE OF THE IV ADDITIONAL DISTRICT JUDGE AND MACT, TUMAKURU, MADHUGIRI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed by the appellant/claimant seeking enhancement of compensation awarded in Judgment and Award dated 19.02.2022 passed in MVC No.134/2021 by IV Additional District Judge and MACT, Tumakuru, sitting at Madhugiri.

2. The facts leading to filing of claim petition are as under:



- a) On 10.11.2020 at about 06.15 p.m. near Dandi Maramma Temple, located near Surenahalli, on Thovinakere-Kabbigere Road, Koratagere Taluk, when the petitioner was proceeding on the left side of the road as a pedestrian towards Kabbigere, the rider of motorbike bearing registration No. KA 06 EN 5051 came from back side by riding his Passion Pro bike in a rash and negligent manner and dashed to the appellant/claimant. As a result of the accident, the claimant fell down and sustained grievous injuries. The claimant took treatment in Hemavathi Hospital, Tumakuru and spent huge money for treatment. The claimant lost his left hand in the accident and is not able to do work as earlier. The claimant is an agriculturist doing agricultural coolie work earning Rs.20,000/- per month. The accident occurred due to rash and negligent driving of the rider of the motorcycle of respondent No.1 which is insured with respondent No.2.
- b) Respondent No.2 in the objections denied each and every averment of the petition i.e., age, income, occupation of the petitioner and occurrence of the accident due to rash and



negligent driving of the rider of the bike and injuries sustained by the claimant etc.

c) On the basis of the said pleadings, the Tribunal has framed the following issues:

(i) *Whether the petitioner proves that on 10.11.2020 at about 6.15 p.m. near Dandinamaramma Temple near Surenahalli on Thovinakere - Kabbigere Road, Koratagere Taluk, when the petitioner was proceeding as a pedestrian towards Kabbigere, the rider of bike bearing Regd.No.:KA06-EN-5051 by driving his vehicle in a rash and negligent manner caused the road traffic accident and injuries to the petitioner?*

(ii) *Whether the petitioner is entitled for compensation? If yes, how much, and from whom ?*

(iii) *What order?*

d) The claimant has been examined as P.W.1 and got examined doctor as P.W.2 and got marked



Exs.P1 to P16. The respondents have not lead any evidence.

- e) The Tribunal after hearing arguments and appreciating the evidence on record has awarded compensation under different heads as under:

1	Pain and Suffering	10,000.00
2	Medical expenses	76,763.00
3	Food, nourishment and conveyance	5,000.00
4	Attendant charges	5,000.00
5	Loss of income during laid off period	10,000.00
6	Loss of future earnings	3,12,000.00
7	Loss of amenities	15,000.00
6	Future medical expenses	15,000.00
	Total	4,48,763.00
	Rounded Off to Rs.	4,49,000.00

- f) The Tribunal has awarded interest on compensation at the rate of 6% per annum from the date of petition till realisation. The Tribunal held that the respondent No.2 - insurer is liable to pay the compensation with interest.



g) The claimant filed the present appeal seeking enhancement of compensation awarded by the Tribunal.

3. Heard the learned counsel for the appellant and learned counsel for respondent No.2 - Insurer.

4. Learned counsel for the appellant contended that, in the accident, the appellant/claimant has lost his left forearm. He is doing agricultural coolie work. Considering the said aspect, functional disability of the claimant is to be taken as 60% as against 20% taken by the Tribunal. The Tribunal has not taken notional income as per the chart prepared for settlement of dispute in Lok Adalat and the notional income fixed for the year 2020 is Rs.14,500/- and the said income has to be taken as against Rs.10,000/- taken by the Tribunal. The compensation awarded for laid up period is only for one month, since there is an amputation of left forearm, it is to be granted for six months.



5. The compensation awarded for pain and suffering, future medical expenses is on the lower side. With these, he prayed to allow the petition.

6. Learned counsel for respondent No.2/insurer submits that the disability taken by the Tribunal at 20% is just and proper. The compensation awarded by the Tribunal under all heads is just and proper. With these, he prays to dismiss the appeal.

7. Having heard the learned counsels, the Court has perused the impugned judgment and award and trial Court records.

The following points arise for my consideration:

- i) Whether the Tribunal is justified in taking the income of the claimant at Rs.10,000/- even though notional income fixed for settlement of disputes in Lok Adalath is Rs.14,500/- for the year 2020?



- ii) Whether the Tribunal has erred in taking the disability at 20% even though there is amputation of left fore-arm?
- iii) Whether the Tribunal has erred in not awarding compensation towards future aspects?

8. **Point No.1:** It is the case of the claimant that he is doing agriculture work as well as agriculture coolie and earning Rs.20,000/- p.m. The claimant has not produced evidence in order to establish the said income. The Tribunal has taken income of the claimant at Rs.10,000/- p.m. The accident has taken place in the year 2020. The notional income fixed by the Legal Services Authority for settlement of disputes in Lok Adalath is Rs.14,500/- p.m. for the year 2020. Considering the said aspect, the Tribunal ought to have taken the notional income at Rs.14,500/- p.m. Therefore, notional income of the claimant is to be taken at Rs.14,500/- p.m. Accordingly, the point is answered.



9. **Point No.2:** The evidence on record indicate that there is amputation of left fore arm below the ankle. Ex.P.12 is the Pass Book of the claimant containing the photograph wherein it clearly indicates amputation of left forearm below ankle.

10. PW.2 is the Doctor who assessed the disability and has opined that claimant is having physical disability of 70%. Learned counsel for respondent No.2/insurer contends that PW.2 has stated that claimant underwent surgery on 10.11.2020 with below knee amputation and got discharged on 15.11.2020 and that indicate that he has assessed disability with regard to leg. The said contention cannot be accepted as the Doctor himself stated in his chief-examination that there is a crush injury to the left fore arm. The records clearly indicate that there is amputation of fore arm below ankle. Considering the said aspect the percentage of functional disability to be taken requires consideration.



11. Learned counsel for the appellant placed reliance on the decision of Hon'ble Apex Court in **Sri Anthony alias Anthony Swamy vs. The Managing Director, KSRTC (AIR ONLINE 2020 SC 585)** on the point that if there is amputation on left hand, the functional disability has to be taken at 60%. The Hon'ble Apex Court in the said decision has observed as under:

10. Raj Kumar vs. Ajay Kumar and another, 2011 (1) SCC 343 lucidly sets out the principles for grant of compensation in cases of permanent physical functional disability as follows:

"10. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, the percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability. Some Tribunals wrongly assume that in all cases, a particular extent (percentage) of permanent disability would result in a corresponding loss of earning capacity, and consequently, if the evidence produced show 45% as the permanent



disability, will hold that there is 45% loss of future earning capacity. In most of the cases, equating the extent (percentage) of loss of earning capacity to the extent (percentage) of permanent disability will result in award of either too low or too high a compensation.

11. What requires to be assessed by the Tribunal is the effect of the permanent disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that the percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation. (See for example, the decisions of this Court in [Arvind Kumar Mishra v. New India Assurance Co. Ltd.](#) and [Yadava Kumar v. National Insurance Co.Ltd.](#))

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13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the



claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.

14. For example, if the left hand of a claimant is amputated, the permanent physical or functional disablement may be assessed around 60%. If the claimant was a driver or a carpenter, the actual loss of earning capacity may virtually be hundred per cent, if he is neither able to drive or do carpentry. On the other hand, if the claimant was a clerk in government service, the loss of his left hand may not result in loss of employment and he may still be continued as a clerk as he could perform his clerical functions; and in that event the loss of earning capacity will not be 100% as in the case of a driver or carpenter, nor 60% which is the actual physical disability, but far less. In fact, there may not be any need to award any compensation under the head of "loss of future earnings", if the claimant continues in government service, though he may be awarded compensation under the head of loss of amenities as a consequence of losing his hand. Sometimes the injured claimant may be continued in service, but may not be found suitable for discharging the duties attached to the post or job which he was earlier holding, on account of his disability, and may therefore be shifted to some other suitable but lesser post with lesser emoluments, in which case there should be a limited award under the head of loss of future earning capacity, taking note of the reduced earning capacity.



11. In *Nagarajappa vs. Divisional Manager, Oriental Insurance Company Limited*, 2011 (13) SCC 323, the physical disability of the upper limb was determined as 68% in proportion to 2223% of the wholebody. This court opined as follows:

"9. On perusal of the doctor's evidence with respect to the nature of injuries suffered by the appellant, the appellant was found, *inter alia*, to be suffering from the following disabilities as a result of the accident—"gross deformity of the left forearm, wrist and hand, wasting and weakness of the muscles of the left upper limb and shortening of the left upper limb by 1 cm". As a result, the doctor stated that the appellant could not work as a coolie and could not also do any other manual work. The doctor assessed permanent residual physical disability of the upper limb at 68% and 22-23% of the whole body.

10. The appellant is working as a manual labourer, for which he requires the use of both his hands. The fact that the accident has left him with one useless hand will severely affect his ability to perform his work as a coolie or any other manual work, and this has also been certified by the doctor. Thus, while awarding compensation it has to be kept in mind that the appellant is to do manual work for the rest of his life without full use of his left hand, and this is bound to affect the quality of his work and also his ability to find work considering his disability. Hence, while computing loss of future income, disability should be taken to be 68% and not 20%, as was done by the Tribunal and the High Court. Our view is supported by the ratio in *Raj Kumar* and from the fact that the appellant is



severely hampered and perhaps forever handicapped from performing his occupation as a coolie."

12. The appellant is working as agriculture labourer for which he requires use of both hands. Since there is amputation of left hand below ankle, the appellant is not able to do agricultural work or any other manual work. Considering the said aspect, as held by the Hon'ble Apex Court in **Raj Kumar vs. Ajay Kumar and another (2011 (1) SCC 343)** the functional disability has to be taken at 60%. Accordingly, point No.2 is answered.

13. It is already held that the claimant is having 60% functional disability. Therefore, the claimant is entitled to future prospects. The age of the claimant is 50 years. A person aged 40 to 50 years is entitled to 25% of future prospects as per the decision of the Hon'ble Apex Court in the case of **National Insurance Company Vs Pranay Sethi and Ors (AIR 2017 SC 5157)**. Considering the



said aspect, the appellant is entitled to future prospects at 25%.

14. Considering the above aspects, the appellant is entitled for loss of future income and the same is assessed as under:

$$\text{Rs.}14,500 \times 12 \times 13 \times 60\% = \text{Rs.}13,57,200/-$$

15. The appellant is entitled to future prospects at 25% of Rs.13,57,200/- which comes to Rs.3,39,300/-. Therefore, the claimant is entitled to loss of future income of Rs.16,96,500/-.

16. As there is amputation of left fore arm, the claimant is entitled to loss of income during laid up period for a period of six months. The Tribunal has erred in awarding loss of income during laid up period for one month. As the income taken now is Rs.14,500/- p.m., the claimant is entitled to loss of income during laid up period in a sum of Rs.87,000/- (Rs.14,500 x 6).



17. Considering the fact that the claimant has sustained amputation of left fore arm, he is entitled for compensation towards pain and suffering in a sum of Rs.1,00,000/- as against Rs.10,000/- awarded by the Tribunal. The Tribunal has rightly awarded medical expenses of Rs.76,763/- and food, nourishment and conveyance and attendant charges in a sum of Rs.10,000/-. As compensation towards future prospects is awarded, the claimant is not entitled for compensation towards loss of amenities as awarded by the Tribunal.

18. PW.2 – Doctor has stated that he has advised to take artificial prothesis. In order to buy artificial prothesis minimum of Rs.60,000/- is required. Considering the said aspect, the award of Rs.15,000/- towards future medical expenses requires to be enhanced to Rs.60,000/-.

19. Considering all the above aspects, the claimant is entitled for total compensation under different heads as under:



1.	Pain and Suffering	1,00,000.00
2.	Medical expenses	76,763.00
3.	Loss of income during laid up period	87,000.00
4.	Loss of future prospectus	16,96,500.00
5.	Food, nourishment, conveyance and attendant charges	10,000.00
6.	Future medical expenses (artificial prothesis)	60,000.00
	Total	20,30,263.00

13. The appellant -claimant is entitled to an enhanced compensation of **Rs.15,81,263/-** (Rs.20,30,263/- minus Rs.4,49,000/-) with interest at the rate of 6% p.a. from the date of petition till realisation. In view of the above the following

ORDER

- i) The appeal is ***allowed in part.***
- ii) The appellant -claimant is entitled to enhanced compensation of **Rs.15,81,263/-** with interest at the rate of 6% p.a. from the date of petition till realization.



- iii) Respondent-insurer shall deposit the said enhanced compensation amount with interest within a period of six weeks from this day, failing which they are liable to pay interest at the rate of 9% per annum from this day till payment/deposit of enhanced compensation amount.
- iv) The appellant is entitled to release of entire enhanced amount.
- v) Draw award accordingly.

Sd/-
(SHIVASHANKAR AMARANAVAR)
JUDGE

KLV/DKB
List No.: 1 Sl No.: 31