



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 3<sup>RD</sup> DAY OF JUNE, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR**

**MISCELLANEOUS FIRST APPEAL NO. 2431 OF 2023**

**(MV-I)**

**BETWEEN:**

1. SRI VIJAYA KUMARA  
S/O VENKABARAO  
AGED ABOUT 61 YEARS  
R/AT NO.1, 3<sup>RD</sup> MAIN ROAD  
SRINIVASANAGARA  
SUNKADAKATTE  
NEAR ANJANEYA TEMPLE  
BANGALORE NORTH  
BANGALORE-560 091.

...APPELLANT

(BY SRI. ANANDA K S, ADVOCATE)

**AND:**

1. THE MANAGER  
NEW INDIA ASSURANCE CO. LTD.,  
R.O No.22-B  
UNITY BUILDING ANNEX  
MISSION ROAD / LALBAGH ROAD  
BANGALORE-560 027.
2. MR RAJENDRA KUMAR GIVELA  
MAJOR  
S/O DURGA MADABA GIVELA  
No.13, ACHARYA COLLEGE ROAD  
NEAR GOUTHAM HOSTEL





CHIKKABANAVARA SHANTHI NAGAR  
BENGALURU-560 090.

...RESPONDENTS

(BY SRI. GEETHA R, ADVOCATE FOR R1  
V/O DATED 25.07.2025, NOTICE TO R2 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 30.11.2022 PASSED IN MVC No. 473/2021 ON THE FILE OF THE C/c XXII ADDITIONAL SMALL CAUSES JUDGE AND ACMM, MEMBER, MACT, COURT OF SMALL CAUSES, BENGALURU (SCCH-24), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION.

THIS APPEAL, COMING ON FOR FINAL HEARING, 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 the judgment and award dated 30.11.2022 passed in MVC No.473/2021 by XXII Additional Senior Civil Judge and ACMM, Court of Small Causes and MACT, Bangalore.

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

a. That on 20.12.2020 at about 07.30 p.m., the appellant -claimant was standing in order to cross 100 feet



main road near Kaveri Bar Peenya Industrial area. At that time, the rider of scooter bearing registration No.KA-01/JG-4178 came at very speed in rash and negligent manner so as to endangering to human life came from TVS Cross Peenya towards FRI circle and dashed against him. As a result, he fell down and sustained fracture of left leg femur and injuries over left leg, great toe, and other injuries. He has taken treatment in Kanva Sri Sai Hospital and underwent surgery.

b. The appellant -claimant was working in garment factory earning salary of Rs.20,000/- per month. Due to accident, he is not able to attend to his day to day activities and he is dependent on others.

c. The accident has occurred due to the rash and negligent riding of the motorcycle rider. The motorcycle has been insured with respondent No.1. Therefore, they are liable to pay the compensation.

d. Respondent No.1 -insurer has filed statement of objections denying the accident, rash and negligent



riding of the scooter and rider of the scooter was not holding valid and effective driving license at the time of the accident.

3. On the basis of the above pleadings, the Tribunal has framed the following issues:

1. *Whether the Petitioner proves that, he met with a Road Traffic accident on 20.12.2020 at about 7.30 p.m. on Industrial Area, 100 feet main road, Near Kaveri Bar, Peenya and sustained grievous injuries due to the rash and negligent riding of the rider of Scooter bearing Reg. No.KA-04-JG-4178?*

2. *Whether the petitioner proves that he is entitled for Compensation? If so, what is the quantum? From whom?*

3. *What order or award?*

a. The appellant -claimant has been examined himself as P.W.1, examined two witnesses as P.W.2 and P.W.2 and got marked documents as Ex.P1 to Ex.P20. Respondent No.1 has not lead any evidence and not got marked any documents.



b. The Tribunal after hearing the arguments on both sides and appreciating the evidence on record has awarded compensation under different heads as under:

1.	Pain & suffering	Rs.45,000/-
2.	Loss of income during laid up period	Rs.29,000/-
3.	Medical expenses	Rs.2,663/-
4.	Loss of future income	Rs.1,56,600/-
5.	Loss of future amenities and happiness	Rs.17,000/-
6.	Attendant, conveyance, food and nourishment charges	Rs.17,000/-
7.	Future medical expenses	Rs.5,000/-
<b>Total</b>		<b>2,72,263/-</b>

c. The Tribunal has held that the appellant - claimant has contributed 20% to the accident and awarded only Rs.2,17,900/- with interest at 6%. The Tribunal has ordered that respondent No.1 -insurer is liable to pay the award amount with interest.

d. Not satisfied with compensation awarded by the Tribunal, the appellant -claimant has filed this appeal seeking enhancement of the compensation.



4. Heard learned counsel for the appellant – claimant and learned counsel for respondent No.1 – Insurer.

5. Learned counsel for the appellant –claimant would contend the following:

a. There is no evidence on record to indicate any contributing negligence on the part of the claimant to hold that he has contributed 20% to the accident. The claimant was a pedestrian crossing the road which was 30 feet. That was one way and there was no any negligence on the part of the claimant and he has not contributed to the accident.

b. P.W.2 is the doctor who gave evidence that the claimant has sustained two fractures and assessed the disability at 21% of the whole body and Tribunal has erred in taking the disability at 10%.

c. The claimant has been admitted in the hospital for 23 days. Considering the said aspect, the compensation awarded for laid up period is on lower side.



The compensation awarded for pain and suffering is also on lower side.

d. P.W.2 -doctor has stated that claimant has to undergo operation for removal of implants and estimated the expenses at Rs.20,000/-. But the Tribunal has awarded only Rs.5,000/- towards future medical expenses.

With these, he prays allow the appeal and enhancement of compensation.

6. Learned counsel for respondent No.1 -Insurer would contend the following:

a. The claimant suddenly entered the road for crossing it and accident has taken place in the middle of the road. Considering the same, the Tribunal has rightly held that the claimant has contributed to the extent of 20%.

b. P.W.2 is the doctor who has stated regarding disability of the claimant. P.W.2 is not a treated doctor. P.W.2 has stated that first fracture is united and second fracture is not forthcoming in the wound certificate.



Considering the said aspect, the Tribunal has rightly taken the disability at 10% of the whole body.

c. The compensation awarded under other heads is just and proper. With these, he prays to dismiss the appeal.

7. Having heard learned counsels, this Court has perused impugned judgment and Trial Court records.

8. The accident and liability of insurer are not in dispute. As the claimant has not produced proof of his income, the Tribunal has rightly taken notional income of Rs.14,250/- per month based on the chart prepared by Legal Services Authority for settlement of disputes in Lok - Aadalath.

9. The accident has taken place at 07.30 p.m., on 20.12.2020. Ex.P4 -sketch of the spot of the accident indicate that width of the road is 30 feet and it is one way. The accident has taken place in the middle of the road. The appellant -claimant was a pedestrian on the said road and he was crossing the road. At that time, the rider of the



scooter has dashed to the appellant -claimant. The Tribunal, observing that there was no zebra crossing has fixed the contributing negligence on the appellant -claimant at 20%. The width of the road is 30 feet and that too it is one way. The offending vehicle is a scooter. Ex.P3 -spot mahazar and Ex.P4 -spot sketch does not indicate any brake marks on the road. It is merely because there are no zebra cross on the spot, the negligence cannot be saddled on the claimant for crossing the road at that spot. If the rider of the scooter was riding it in a slow and cautious manner, he would have applied the brake and avoided the accident. Considering the said aspect, the Tribunal has erred in holding that the appellant -claimant has contributed for accident to the extent of 20%. The charge sheet has been filed against the rider of the scooter and therefore, the entire liability has to be saddled on the owner and insurer of the scooter.

10. P.W.2 is doctor and he has given evidence regarding the disability of the claimant. P.W.2 has



assessed the disability of the whole body at 20.66% taking into consideration of two fractures. P.W.2 -doctor in the cross-examination has accepted that the first fracture is united and there is no mention of second injury in Ex.P8 – wound certificate. Considering the said aspect, the Tribunal has rightly taken the disability of the claimant at 10%.

11. The claimant has sustained two fractures and therefore, he is entitled to a sum of Rs.60,000/- towards pain and suffering as against Rs.45,000/- as awarded by the Tribunal. The claimant was admitted in hospital for 23 days and considering the same the loss of income during laid up period has to be granted for 03 months i.e., in a sum of Rs.14,250/- x3 = Rs.43,500/- as against Rs.29,000/- as awarded by the Tribunal. The Tribunal has rightly awarded a loss of amenities in a sum of Rs.17,000/- and Attendance charges etc., in a sum of Rs.17,000/-. P.W.2 has stated in his evidence that the claimant has to undergo operations for removal of



implants and estimated the expenses at Rs.20,000/-. Even though such evidence on record, the Tribunal has erred in awarding future medical expenses at Rs.5,000/-. The claimant is entitled to a sum of Rs.20,000/- towards future medical expenses.

12. Considering the above aspects, the claimant is entitled to total compensation as under:

<b>Sl.No.</b>	<b>Heads</b>	<b>Amount in Rs.</b>
1	Pain and suffering	60,000/-
2	Loss of income during laid up period	43,500/-
3	Medical expenses	2663/-
4	Loss of Future income	1,56,600/-
5	Loss of amenities	17,000/-
6	Attendant charges	17,000/-
7	Future medical expenses	20,000/-
<b>Total</b>		<b>3,16,763/-</b>

The claimant is entitled to total compensation of **Rs.3,16,763/-** with interest at the rate of 6% per annum from the date of petition till payment. Respondent No.1 - insurer shall pay the said compensation with the interest.

13. In the result, the following



ORDER

- i) The appeal is ***allowed in part.***
- ii) The appellant –claimant is entitled to total compensation of **Rs.3,16,763/-** with interest at the rate of 6% per annum from the date of petition till realisation.
- iii) Respondent No.1 -insurer shall deposit the entire compensation amount with interest, excluding the amount already deposited, within a period of 06 weeks from this day, failing which, it is liable to pay interest at the rate of 9% P.A. from this day till payment of compensation amount.

**Sd/-**  
**(SHIVASHANKAR AMARANNAVAR)**  
**JUDGE**

DSP  
List No.: 1 Sl No.: 42