

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

**DATED THIS THE 1<sup>st</sup> DAY OF JUNE, 2026**

**PRESENT**

**THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI**

**MISCELLANEOUS FIRST APPEAL NO.103410 OF 2016**

**BETWEEN:**

SMT. PADMA W/O VENKATARATNAM  
AGED ABOUT 31 YEARS, OCC: TAILOR,  
R/O: PALAKENDRAM VEEDHI,  
YELAKRISHNA POULTRY, NALLAJARLA VILLAGE  
WEST, GODAVARI DISTRICT,  
PRESENTLY R/O: KRISHAN NAGAR CAMP,  
KOLAGALLU VILLAGE, BALLARI TQ. AND DIST.

...APPELLANT

(BY SRI Y. LAKSHMIKANT REDDY, ADVOCATE)

**AND:**

- 1 . VENKATESH S/O BASAPPA  
AGED ABOUT 39 YEARS,  
DRIVER OF THE TEMPO TOOFAN  
BEARING REG.NO.KA-35/N-3794,  
R/O: 5<sup>TH</sup> WARD, INDIRA NAGAR,  
KAMPLI POST, HOSAPETE TQ, BALLARI DISTRICT.
- 2 . P. RATNAIAH S/O CHINNA VENKATAIAH  
AGED ABOUT 43 YEARS,  
OWNER OF THE TEMPO TOOFAN  
BEARING REG.NO.KA-35/N-3794,  
R/O: 5<sup>TH</sup> WARD, INDIRA NAGAR,  
KAMPLI POST, HOSAPETE TQ, BALLARI DISTRICT.
- 3 . THE DIVISIONAL MANAGER  
RELIANCE GENERAL INSURANCE CO. LTD.,  
SIRUGUPPA ROAD, OPP. AXIS BANK, BALLARI.

...RESPONDENTS

(BY SRI SURESH S. GUNDI, ADVOCATE FOR R3;  
NOTICE TO R1 AND R2 DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, AGAINST THE JUDGMENT AND AWARD DATED 13.06.2016 PASSED IN MVC NO.908/2014 ON THE FILE OF THE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL-II, BALLARI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL IS COMING ON PRONOUNCEMENT AND THE SAME HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 16.03.2026, THIS DAY, DELIVERED THE FOLLOWING:

**CAV JUDGMENT**

(PER: THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI)

This is the appeal filed by the claimant in MVC No.908/2014 on the file of learned Motor Accident Claims Tribunal-II, Ballari, seeking enhancement of the compensation.

2. The claimant filed the petition in MVC No.908/2014 under Section 166 of Motor Vehicles Act seeking compensation of Rs.25,00,000/- from the driver, owner and insurer of Tempo Toofan Vehicle bearing No.KA-34-N-3794 for the injuries sustained by her in a road traffic accident that occurred on 08.06.2014, on the ground that the accident was attributable to the negligence of the driver of the said vehicle.

3. On service of the notice, all the respondents appeared before the Tribunal through their counsel and contested the petition by filing their written statement. Afterwards, the Tribunal decided the claim petition on merits of the case by holding an enquiry. Based on the materials placed on record, the Tribunal held that the driver of Tempo Toofan

was responsible for the accident and that the claimant had suffered injuries in the said incident. Accordingly, the Tribunal allowed the claim petition in part and awarded compensation of Rs.5,06,180/- to her together with interest at the rate of 6% per annum from the date of petition till its realization. Feeling aggrieved, the claimant maintained this appeal seeking enhancement of the compensation.

4. Sri Y. Lakshmikant Reddy, learned Counsel for Claimant, vehemently submitted that the claimant was working as a tailor and earning a sum of Rs.25,000/- per month at the time of the accident. He further submitted that due to the impact of the accident, the claimant suffered fractures of left tibia and fibula and thereby suffered loss of future earning capacity. He contended that the Tribunal erred in considering claimant's income as Rs.5,000/- per month and consequently, failed to award a just and compensation under the head of loss of future income. He also submitted that the Tribunal has failed to award reasonable compensation under other heads, such as pain and suffering, loss of income during laid up period, future medical expenses and loss of amenities. Accordingly, he prayed for suitable enhancement of the compensation by allowing the appeal.

5. Per contra, Sri Suresh S. Gundi, learned Counsel for Insurer, supported the findings recorded by the Tribunal and submitted that the Tribunal awarded just and proper compensation to the claimant based on the materials available on record. As such, he contended that the claimant has not made out any valid ground to seek for enhancement of the compensation.

6. In the light of the contentions put forth before this Court, the only point that arises for consideration is 'whether the claimant has made out valid ground to enhance the compensation?'

7. The Tribunal awarded a total compensation of Rs.5,06,180/- to the claimant under the following heads:

Sl.No.	Heads	Amount (in Rs.)
1.	Pain and agony	80,000.00
2.	Medical Expenses including incidental expenses	66,178.00
3.	Loss of income during period of treatment	5,000.00
4.	Loss of future income	2,65,200.00
5.	Future medical expenses	30,000.00
6.	Loss of amenities	10,000.00
7.	Loss of future prospects	50,000.00
	<b>Total</b>	<b>5,06,178.00</b>
	<b>Rounded of to</b>	<b>5,06,180.00</b>

8. The main grievance of the claimant is that the Tribunal did not take into consideration her correct income for the purpose of determining loss of income during the laid up period and loss of future income. Though the claimant contended that she was earning Rs.25,000/- per month by doing tailoring work, she did not produce any material before the Tribunal to support that contention. In the absence of such evidence, the Tribunal took the claimant's notional income at Rs.5,000/- per month.

9. Admittedly, the claimant did not produce any document before the Tribunal to prove her earnings as a tailor or her actual income at the relevant point of time. In such circumstances, the Tribunal had no option but to decide the claim based on claimant's notional income. Now, the material question is 'what should have been the notional income of the claimant?' As per the wound certificate (Ex.P5) and the charge sheet (Ex.P7), the claimant was aged 30 years at the time of the accident. Further, undisputedly she was a married woman. As such, the notional income of the claimant should have been taken atleast as that of a homemaker. While dealing with the question of the notional income of a homemaker, it is necessary to take into account her multifarious services to the

home and family. It well settled that while computing income for homemakers, the courts should rely on facts and circumstances of the case and that the compensation should neither be conservative nor overly liberal.

10. Learned Counsel for Claimant has drawn the attention of this Court to the chart of KSLSA prepared for the purpose of settlement of the cases before Lok-Adalat and submitted that the Tribunal at least ought to have considered the said chart for arriving at the notional income of the claimant. As per the chart, the notional income of an unskilled person during the year 2014 is to be taken at Rs.7,500/- per month. This Court opines that in the absence of any other material to determine the income of the claimant, it would be proper to rely on the chart as contended by the claimant. In that event the notional income of the claimant is to be taken as Rs.7,500/- per month.

11. The wound certificate (Ex.P5) and the case sheet (Ex.P7) shows that the claimant had suffered fracture of lower 1/3<sup>rd</sup> of left tibia and fibula apart from other four other simple injuries. As per Ex.P7, the claimant was treated with CIRF with tibia IMIC for the said fracture. The documents available on record also indicate that the claimant under went treatment as

an inpatient for 11 days i.e., from 08.06.2014 to 19.06.2014. The Tribunal awarded compensation of Rs.5,000/- under the head of loss of income. Considering the nature of injury sustained by the claimant, it is opined that she needed about three months period for healing up and recovery. Hence, it is held that the claimant is entitled for a sum of Rs.22,500/- (i.e., Rs.7,500 x 3) under the head of loss of income during the period of treatment.

12. The claimant contends that due to injuries sustained in the accident she has suffered permanent partial disability and thereby suffered loss of future earning capacity. In support of this contention, she examined Dr. Shashidhara Reddy as PW-3. In his evidence, PW-3 stated that upon physical examination, he had found wasting of right leg muscle and gross restriction of movement at right ankle and knee associated with pain, in the claimant. He further stated that the clinical evidence showed non-union of fracture of both bones of right leg. Thus, he opined that the claimant has got permanent partial disability to an extent of 26% to the whole body. He also stated that the claimant needs to undergo a surgery for removal of implants.

13. Though PW-3 stated that the claimant has got permanent partial disability to an extent of 26% to the whole body, he did not provide details of the calculation and basis for his assessment of percentage of disability. Even then, the x-ray sheet produced as Ex.P12 shows that the fracture suffered by the claimant has not yet united. Added to the above, the respondents have not come up with any appeal challenging correctness of the finding recorded by the Tribunal on this aspect or on any other issue bearing on computation of the compensation. In the absence of any such challenge, it requires to re-calculate loss of future income based on the notional income determined by this Court and the percentage of disability given by PW-3. Thus, the loss of future income of the claimant works out to Rs.3,97,800/- (i.e.,Rs.7,500 x 12 x 17 x 26%).

14. The claimant has sought enhancement of the compensation under the head of medical expenses and incidental charges on the ground that her actual medical expenses amount to Rs.63,178/- and the Tribunal has awarded a meager sum of Rs.3,000/- towards food, nourishment and other incidental expenses. The case papers demonstrate that the claimant underwent treatment for injury sustained in the

accident as an inpatient for 12 days. The nature of injuries sustained by her indicates that she needed further treatment even after her discharge from the hospital. In view of the same, it would be proper to award a sum of Rs.12,000/- to the claimant under the head of food, nursing and incidental charges apart from her actual medical expenses of Rs.63,178/-, incurred under the bills produced as Ex.P10. Hence, it is held that she is entitled to a sum of Rs.75,178/- under the head of medical expenses and incidental expenses.

15. The Tribunal awarded a sum of Rs.30,000/- to the claimant under the head of future medical expenses. The claimant has sought its enhancement on the ground that it is meager amount. During his evidence, PW-3 stated that the claimant needs to undergo removal of implants, which would cost approximately Rs.30,000/-. The claimant has not adduced any other evidence on record to show that her future medical expenses costs more than Rs.30,000/-. In the said circumstances, the compensation awarded by the Tribunal under the head of future medical expenses is not disturbed.

16. The claimant contends that the Tribunal has erred in awarding Rs.10,000/- under the head of loss of amenities. Whereas, the impugned judgment shows that the Tribunal

awarded a sum of Rs.10,000/- to the claimant under the head of loss of amenities apart from a sum of Rs.50,000/- under the head of loss of future prospects. The Tribunal having awarded compensation under the head of loss of future income, could not have also awarded compensation under the head of loss of future prospects. Thus, taking into consideration the above stated factual aspects, this Court holds that the claimant is entitled to a sum of Rs.20,000/- under the head of loss of amenities in place of the compensation awarded by the Tribunal under the loss of amenities and loss of future prospects.

17. The claimant contends that the Tribunal ought to have awarded interest on the compensation amount at the rate of 9% per annum instead of 6% per annum. The materials on record clearly show that the claimant has not made out any special circumstances to award interest at a higher rate than the normal rate of interest. Hence, this contention of the claimant is not accepted. Accordingly, the point for consideration is answered partly in the affirmative.

18. For the foregoing reasons, this Court holds that the claimant is entitled for total compensation of Rs.6,25,500/- in place of Rs.5,06,180/- awarded by the Tribunal under the following heads:

Sl.No.	Heads	Amount (in Rs.)
1.	Pain and agony	80,000.00
2.	Medical Expenses including incidental expenses	75,178.00
3.	Loss of income during period of treatment	22,500.00
4.	Loss of future income	3,97,800.00
5.	Future medical expenses	30,000.00
6.	Loss of amenities	20,000.00
	<b>Total:</b>	<b>6,25,478.00</b>
	<b>Rounded off:</b>	<b>6,25,500.00</b>

19. In the result, this Court proceeds to pass the following:

**ORDER**

- (i) The appeal is allowed in part.
- (ii) The judgment and award dated 13.06.2016 passed in MVC No.908/2014 by learned Member M.A.C.T- II, Ballari is modified.
- (iii) The claimant is entitled for total compensation of Rs.6,25,500/- in place of Rs.5,06,180/- awarded by the Tribunal together with interest at the rate of 6% per annum on the enhanced compensation amount from the date of petition till its realization.
- (iv) Respondent No.2 is directed to deposit entire award amount (minus the amount already deposited) before the Tribunal, within a period of two (2) months from this day.

- (v) Draw modified award accordingly.
- (vi) The registry is directed to send back the record to concerned Tribunal at the earliest.

**Sd/-  
(B. MURALIDHARA PAI)  
JUDGE**

RKM,YAN  
CT: CMU