



NC: 2026:KHC:32827-DB
MFA No. 1405 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

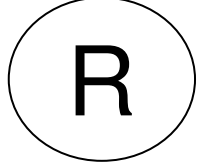
DATED THIS THE 1ST DAY OF JULY, 2026

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU



MISCELLANEOUS FIRST APPEAL NO.1405 OF 2021

(MV-I)

BETWEEN:

CHETHANA
AGED ABOUT 29 YEARS,
W/O PRADEEP ACHAR,
REP. BY HER GUARDIAN MOTHER
LALITHA, AGED ABOUT 60 YEARS,
W/O LATE RAMA CHANDRA SHERIGAR
R/O MAKKI MANE, CHURCH ROAD,
KUNDAPURA TALUK - 576 217.

...APPELLANT

(BY SRI. H PAVANA CHANDRA SHETTY., ADVOCATE)

AND:

1. PRADEEP ACHAR
AGED ABOUT 39 YEARS, S/O SEETHARAM ACHAR,
R/O H NO.219 A, 4TH WARD,
OMBATDANDIGE ROAD,
KUNDAPURA TALUK - 576 201.
2. NATIONAL INSURANCE CO. LTD.,
BRANCH OFFICE, KUNDAPURA
2ND FLOOR, SRI. SAI CENTRE,
MAIN ROAD, KUNDAPURA - 576 201.

...RESPONDENTS

(BY SRI. A.N.KRISHNA SWAMY., ADVOCATE FOR R2;



VIDE ORDER DATED 15.09.2021, NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 17.06.2020 PASSED IN MVC NO.794/2016 ON THE FILE OF THE SENIOR CIVIL JUDGE AND ADDITIONAL MACT, KUNDAPURA, TO THE EXTENT OF DISALLOWED CLAIM AND ALLOW THIS APPEAL BY ENHANCING THE COMPENSATION, IN THE INTEREST OF JUSTICE.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present appeal seeks to challenge the Judgment and Award dated 17.06.2020 in M.V.C.No.794/2016 passed by the learned Senior Civil Judge & Addl. MACT, Kundapura (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded Rs.11,12,187/- to the appellant/claimant with interest at 6% per annum from the date of petition till its realisation.

2. This appeal has been filed by the appellant/claimant seeking enhancement of the amounts awarded. Notice to



respondent No.1/owner-cum-driver was dispensed with by this Court by an order dated 15.09.2021 since no relief was claimed against him.

3. The brief facts that are relevant in the case are that on 27.01.2016, the appellant/claimant was travelling as a pillion rider on a motorcycle bearing Registration No.KA-20-EF-7439 being driven by her husband. When the motorcycle reached near Thekkatte Village on NH-66, the rider of the motorcycle lost control and fell on the road. Due to the impact, the appellant/claimant sustained grievous injuries and was shifted to KMC Hospital, Manipal and treated as an in-patient for fractures, head injury and nerve injuries. It was stated that she spent a sum of Rs.6,50,000/- on treatment, food, medicine, attendant charges and required a further sum of Rs.1,00,000/- for future treatment. The claim petition also set out that she was working as Post Office Incharge and also doing tailoring work and was also a housewife and was earning Rs.15,000/- per month and due to the injuries sustained by her, she is not in a position to do any sort of work in



future in view of the fact that she has suffered a permanent disablement.

4. Notice of the petition was served to the respondents. Since the respondent No.1/Owner-driver did not appear, he was placed as *ex parte* and the respondent No.2/Insurance Company contested the matter. The averments of the petition were denied and it was stated that the compensation claimed by the appellant/claimant is exorbitant and speculative. The respondent No.2/Insurance Company also claimed that the rider was not riding in a rash and negligent manner and that there was no fault on the part of the rider *qua* the accident.

5. Based on the pleadings between the parties, the following Issues were framed by the Learned Tribunal:

"ISSUES

"1. Whether the petitioner proves that she had sustained injuries in a road traffic accident alleged to have taken place on 27.01.2016 at about 9.00 a.m., near Grace Auditorium, Thekkatte Village, NH-66, Kundapura Taluk, due to the rash and negligent riding of the rider of the motor cycle bearing Reg.No.KA-20-EF-7439?

2. Whether the respondent No.2 proves that the rider of the motor cycle bearing Reg.No.KA-20-EF-



7439 had no valid and effective driving licence to ride the said vehicle at the time of accident?

3. Whether the petitioner is entitled for compensation? If so, what is the quantum? From whom?

4. What Order or Award?"

6. The mother of the appellant/claimant was examined as PW-1 and one eye-witness as PW-2. The Doctor who treated the appellant/claimant namely Dr. Vinod Kumar from the Department of Neurosurgery at KMC Hospital, was directed to give evidence and his deposition was recorded under commission, on 15.09.2018, which was marked as Exhibit C1 by the learned Tribunal. One hundred and eleven (111) documents were marked in evidence as Ex.P-1 to Ex.P-111, which included the FIR (Ex.P1), complaint (Ex.P2), spot mahazar (Ex.P3), wound certificate (Ex.P4), AIR report (Ex.P5), Hospital and medical bills (Ex.P6 to 49 & Ex.P51 to 93), Disability Certificate (Ex.P94) and Discharge Summary (Ex.P95 to 99).

7. Based on the evidence adduced by the parties, the learned Tribunal found that PW-2/eye-witness to the



accident has deposed that he has witnessed the accident from a close distance of about 50 feet and the accident occurred due to the rash and negligent riding of the motorcycle. In addition, based on the FIR and complaint, the learned Tribunal found that the Jurisdictional police have registered a case against respondent No.1 who is the rider and the owner of the vehicle. Thus, it was held that the rash and negligent riding was proved.

8. On the other issues, the learned Tribunal after examining the Wound Certificate, found that the appellant/claimant had sustained several injuries. The Doctor who treated the appellant/claimant whose deposition is found at Exhibit C1 with respect of the Neuropsychological assessment of the appellant/claimant reveals that the appellant/claimant would have difficulty in carrying out her daily activities. The disability as held by the Doctor was 82.25% to the whole body, which was stated to be permanent in nature. However, the learned Tribunal has held that the neuropsychological disability



and disability due to convulsion affecting the functional disability of the appellant/claimant would not more than 40%. It was further held that since the appellant/claimant was 25 years, applying the multiplier of '17' and taking the monthly income of the appellant/claimant as Rs.8,000/-, the compensation towards 'loss of income due to disability' was calculated as:

$$8000 \times 12 \times 17 \times 40\% = \text{Rs.}6,52,800/-.$$

8.1 In addition, compensation was awarded towards 'pain and suffering', 'future medical expenses and expenses of care taker', 'conveyance, diet and attendant charges', 'loss of income during laid up period', 'future medical expenses' and 'loss of amenities of life' in the following amounts:

Sl.No.	Heads of compensation	Amount (in Rs.)
1	Loss of income due to disability (8000 x 12 x 17 x 40%)	6,52,800-00
2	Towards pain and suffering	75,000-00
3	Towards medical expenses	1,52,387-00
4	Towards conveyance, diet and attendant charges	50,000-00
5	Towards loss of income during laid up period	32,000-00
6	Towards Future Medical Expenses and expenses of care taker	1,00,000-00



7	Loss of amenities of life	50,000-00
	TOTAL	11,12,187-00

8.2 Thus, an amount of Rs.11,12,187/- along with interest at 6% per annum was awarded by the learned Tribunal.

9. The challenge in the present appeal is by the appellant/injured herself. The learned counsel for the appellant/claimant submits that given the nature of the injuries of the appellant/claimant and that fact that she is mentally and physically disabled permanently, the Doctor had assessed the permanent disability at 82.25%. However, the learned Tribunal wrongly awarded the disability at 40%. In addition, the appellant/claimant was hospitalised for five times and was admitted as an in-patient totally for 42 days and was under regular followup treatment for at least 10 times in the "out-patient" department. The amounts awarded towards 'pain and suffering' and 'conveyance diet and attendant charges' are meagre. Lastly, learned counsel for the appellant/claimant



contends that given the fact that the evidence has revealed that the appellant/claimant will be unable to take care of herself throughout her life and given the average lifespan of a person would be 75 years, the attendant charges must be paid for a total number of 50 years, given that the appellant was 25 years old on the date of the accident. Learned counsel for the appellant/claimant has also stated that in view of the recent pronouncements, the interest ought to be enhanced to 9% instead of 6% as awarded by the learned Tribunal.

10. Learned counsel for respondent No.2/Insurance Company on the other hand has contended that an examination of the evidence of the Doctor whose deposition is exhibited as Exhibit C1, would reveal that the disability is not permanent. Further he submits that the Doctor has stated that the convulsions are treatable with medicine. Thus, the disability was rightly calculated by the learned Tribunal. In addition, learned counsel for the respondent No.2/Insurance Company submits that the learned Tribunal has already awarded amounts for 'future



medical expenses and for the caretaker' and thus the compensation has been rightly awarded. He has further contended that the interest at 6% has been correctly awarded by the learned Tribunal and the same needs no further interference.

11. The matters that would arise for determination of this Court are:

(i) Whether the compensation that has been awarded by the learned Tribunal is in accordance with law?

(ii) Whether the interest awarded is in accordance with settled legal principles?

12. At the outset, it can be seen that although the appellant/claimant was aged 25 years and was married to respondent No.1, who was also the driver and owner of the offending vehicle, the claim petition was filed through the guardian of the appellant/claimant being her mother.

12.1 The claim petition stated that since the appellant/claimant is suffering from mental disability, the mother has signed and presented the claim petition. It was



also stated that due to the accidental injuries, the appellant/claimant is not able to do any work. It was also stated that the appellant/claimant was working as the Post office Incharge at Thekkatte Post Office and also doing tailoring work and also a housewife and was earning Rs.15,000/- per month. But due to the accidental injuries she was not in a position to do any work in the future. It was also stated that the appellant/claimant is suffering from memory issues and neurological issues. The relevant extract of the claim petition is set out below:

"c. The petitioner was hale and healthy. She was working as Post Office Incharge at Thekkatte Post Office and also doing tailoring work and also housewife and thereby she was earning Rs.15,000/- per month. Due to the accidental injuries the petitioner could not able to attend her work. Due to the accident the petitioner will not be in a position to do any sort of work in future. The petitioner has suffered permanent disablement. The petitioner has lost her future expectations of life and she is suffering from memory problem, nerve problem, she is suffering from mentally and physically ill health. Due to the accident the petitioner and her family members have suffered loss and hardship.

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f. Since the petitioner is suffering from mental disablement. Therefore, petitioner mother has signed and presented this claim petition.

[Emphasis Supplied]



13. An examination of the disability certificate issued by the Doctor shows that the appellant/claimant suffered from severe head injuries and that she was on anti-convulsants at the time of her discharge. She was readmitted for a surgical site infection and thereafter was discharged. Subsequently, she was re-admitted for the third time for a cranioplasty. Even during her follow-up, the appellant/claimant had breakthrough seizures. In addition, the appellant/claimant has a poor working memory and has difficulty in following instructions. Thus it was stated by the Doctor that the appellant/claimant would have difficulty in carrying out her daily activities and assessed her total disability at 82.5%. The Disability Certificate [Ex.P94] reflecting this is extracted below:

"DISABILITY CERTIFICATE

*This is to certify that Mrs. Chethana Achar (Hospital No.02838441) was admitted with alleged history of RTA on 27.1.2016. At the time of admission her GCS was E2 V1 M5. **Her CT showed acute SDH in right fronto temporo parietal region. She underwent emergency decompressive craniectomy with evacuation of haematoma on 27.1.2016.** She gradually recovered and was then shifted to ward. She got discharged on 16.02.2016 and GCS at the time of discharge was E3 V3 M6 **and was on anticonvulsants at the time of discharge.** She was*



under regular follow up since then. **She got readmitted on 29.02.2016 for surgical site infection and was discharged on 02.03.2016 once infection as under control. She was admitted for cranioplasty on 12.3.2016 and was discharged on 22.03.2016. During her follow up, she had breakthrough seizures for which appropriate dose adjustment of anticonvulsant were done. Her neuropsychological assessment revealed that she has difficulty in identifying numbers, colours and shapes. She has poor working memory and has difficulty in following instructions. Because of these things she will have difficulty in carrying out daily activities. This amounts to a disability of 75%. She also has post traumatic seizure which amounts disability of 25%.**

Her total disability will be 82.25%.

*Dr. Vinod Kumar,
Asst. Professor,
Dept. of Neurosurgery."*

[Emphasis Supplied]

13.1 The deposition of Dr. Vinod Kumar also similarly reflects that at the time of the accident, the appellant/claimant had a severe head injury and the CT scan showed acute subdural haemorrhage. All the wounds of the appellant/claimant were grievous and although she was discharged on 16.02.2016, she was again admitted on 29.02.2016 and discharged on 02.03.2016. Subsequently she was admitted on 12.03.2016 for cranioplasty surgeon which is replacing the bone flap back to skull from the



abdomen and was discharged on 22.03.2016. She was readmitted on 23.03.2016 and discharged on 28.03.2016. The Doctor's statement also shows that she was admitted for the fifth time on 25.06.2017 for other infections. The Doctor also stated that her disability is permanent in nature and applicable to the whole body and that she needs regular medication which has to be given under the supervision of others, as the appellant/claimant is not able to take medicine on her own. The relevant extract of the deposition is extracted thus:

"I know the petitioner in the above case and I have treated her injuries sustained by her in a road traffic accident. She was admitted to K.M.C Hospital on 27/01/2016 with history of R.T.A. At that time her COMA Score was E2V1M5 indicating severe head injury. Immediately C.T scan was done which showed acute subdural haemorrhage on right side with significant mass affect and mid line shift. She underwent emergency decompressive craniectomy and evacuation of SDH under general anesthesia. Post operatively she gradually recovered with residual right sided weakness. All the injuries mentioned in the wound certificate are grievous in nature. She was discharged on 16/02/16. She was advised to continue physiotherapy and anti convulsant medicines.

Again she was admitted on 29/02/16 with scalp wound infection. During this admission she was treated with antibiotics and was discharged on 02/03/16. Again she was admitted in the hospital on 12/03/16 for cranioplasty surgery which is replacing the bone flap back to skull from



abdomen. She was discharged on 22/03/16. Because of severe infection of inner part of head (meningitis) she was re-admitted to hospital on 23/03/16. This was confirmed by lumbar puncture. She was treated with intra venous antibiotics and discharged on 28/03/16. Again she was admitted in hospital on 25/06/17 with history of bilateral bacterial pneumonia and she was treated in General Medicine Department. Thereafter she was under regular follow up treatment in our department and I have seen her at least 10 times in O.P.D. I have issued disability certificate on 16/12/2017 which is already marked as Ex-P94 which bears my signature. Thereafter also she was under regular follow up treatment at O.P.D.

Her neuropsychological assessment revealed that she has disability in identifying numbers, colours and shapes. She has poor working memory and has difficulty in following instructions. Because of these she will have difficulty in carrying out daily activities. This amounts to disability of 75%. She also has post traumatic seizure which amounts disability of 25%. Her total disability is 82.25% and I have issued disability certificate to that effect. Her disability is permanent in nature. Her disability is applicable to whole body.

Petitioner needs regular medication i.e. anti convulsants which should be given under supervision of others as petitioner is not able to take medicine on her own. Approximate cost of medicine per day is Rs.50-00. Petitioner requires constant supervision by care taker for her daily activities."

[Emphasis Supplied]

14. In the cross examination conducted by the counsel for the respondent No.2/Insurance Company, the Doctor reiterated that although the condition of the



appellant/claimant has improved neurologically, she still has cognitive deficits and persistent seizures. He further stated that if she discontinued the medication, seizures are likely to develop. The Doctor further deposed that it is unlikely that the appellant/claimant will improve as two years have already elapsed.

15. The Supreme Court in ***Raj Kumar Vs. Ajay Kumar and Another***¹ has in detail discussed how the Court must calculate 'loss of future earning' due to permanent disability. The principles for assessment of disability have been summarized in the following manner:

"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

¹ (2011) 1 SCC 343



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. [(2010) 10 SCC 254 : (2010) 3 SCC (Cri) 1258 : (2010) 10 Scale 298] and Yadava Kumar v. National Insurance Co. Ltd. [(2010) 10 SCC 341 : (2010) 3 SCC (Cri) 1285 : (2010) 8 Scale 567]).

12. Therefore, the Tribunal has to first decide whether there is any permanent disability and, if so, the extent of such permanent disability. This means that the Tribunal should consider and decide with reference to the evidence:

(i) whether the disablement is permanent or temporary;

(ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement;

(iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is, the permanent disability suffered by the person.



If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, **it has to determine whether such permanent disability has affected or will affect his earning capacity.**

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.

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15. It may be noted that when compensation is awarded by treating the loss of future earning capacity as 100% (or even anything more than 50%), the need to award compensation separately under the head of loss of amenities or loss of expectation of life may disappear and as a result, only a token or nominal amount may have to be awarded under the head of loss of amenities or loss of expectation of life, as otherwise there may be a duplication in the award of compensation. Be that as it may.

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9. We may now summarise the principles discussed above:

(i) **All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.**

(ii) **The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).**

(iii) **The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.**

(iv) **The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors."**

[Emphasis Supplied]

15.1 Given the extensive evidence placed on record by the appellant/claimant and the type of injuries sustained, it is quite clear that the appellant/claimant would be unable to return back to her avocation throughout her life. She would also not be able to take care of herself



independently, requiring an attendant. However, the learned Trial Court has not sufficiently awarded amounts to defray these expenses.

15.2. The award for future medical expenses and care taker at Rs.1,00,000/- is also, wholly inadequate. Since the appellant/claimant is unable to take care of her day-to-day activities or be able to live her life in a normal way, she would require an attendant for the rest of her life at least for 50 years. Given her age at the time of the accident and she would require an attendant for the rest of her life, this Court deems it apposite to award 'Caretaker expenses' for a period of 50 years, which we find it just and proper to award at Rs.20,00,000/-.

15.3 Thus, the award for 'Caretaker Expenses' is enhanced to Rs.20,00,000/-.

16. In view of the foregoing, the compensation towards 'pain and suffering' requires to be enhanced by another Rs.3,25,000/-. The 'loss of income in view of disability' would thus have to be recalculated, reflecting a disability



of 100%. Given the successive hospitalization of the appellant/claimant, compensation towards the 'loss of amenities in life' would also require to be enhanced.

17. In the case on hand, the appellant/claimant was aged 25 years at the time of the accident. Hence, the multiplier ought to be taken at '18' and in view of the fact that the accident occurred in the year 2016, the notional income is taken at Rs.9,500/- and 40% is added towards 'future prospects' considering 100% disability to the whole body and the compensation towards 'loss of income due to disability' is calculated thus:

Loss of income due to disability	Amount
$(9500/- + 40\% \times 12 \times 18) \times 100\%$	Rs.28,72,800/-

18. On the aspect of the interest to be awarded by the Tribunal, one of us, Justice Tara Vitasta Ganju, has in a recent judgment captioned **United India Insurance Co. Ltd. vs. Sri. Malyadri. M And Others²**, after analyzing the precedents of the Supreme Court and this Court, has

² 2026 SCC Online Kar 4090



found that an award of 9% interest is in accordance with the settled provisions in the present day scenario, especially in cases of death and permanent disability. It was held that the award of 9% interest has been regularly upheld by the Supreme Court. It is apposite to extract the relevant portion of the judgment below:

*"24. Thus, an analysis of the precedents shows that the award of interest **over the last 5-10 years has infact consistently been awarded @ 9% p.a. or upholding such an award.***

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29. An analysis of the foregoing discussions of the Supreme Court, **reflects that the Supreme Court has consistently held that the award of interest is intended to recompensate the claimant for being deprived of the use of money, which ought to have been paid at the time of occurrence of the accident.** The rate of interest, therefore, must be just, fair and reasonable, having regard to the prevailing economic conditions and bank rates.

29.1. **The award of interest is usually determined at the prevailing bank rate of interest on a case-to-case basis and at the rate which is just and fair and reasonable.**

29.2 **There cannot be any 'straitjacket formula' in determining the rate of interest and that the same must depend on the facts and circumstances of each case. The guiding principle remains that the rate must neither be punitive nor non-existent but must strike a balance between fairness to the claimant and reasonableness to the insurer.**

29.3 The rate of interest 9% is more appropriate in case involving death and serious injury especially,



where there is a long delay in the claimants receiving the compensation.

30. In the present case, the accident occurred in the year 2016 leading to the death of the wife of respondent No.1 and mother of respondent Nos.2 and 3. **The award came to be passed in the year 2018. The learned Tribunal has deemed it apposite to award interest on the compensation @ 9% per annum. The award of interest is not punitive as is fair considering the prevailing economic condition and bank rates. In addition, it is now 10 years since the date of the accident.**

[Emphasis Supplied]

19. In view of the foregoing discussion, this Court deems it apposite to re-assess the compensation to be awarded in the following manner:

Sl.No.	Heads of compensation	Amount (in Rs.)
1	Loss of future income due to disability (9500x 12 x 18 x 100% + 40%)	28,72,800-00
2	Towards pain and suffering	4,00,000-00
3	Towards medical expenses	1,52,387-00
4	Towards conveyance, diet and attendant charges	50,000-00
5	Towards loss of income during laid up period (9500 x 4)	38,000-00
6	Towards expenses of Caretaker/Attendant charges	20,00,000-00
	TOTAL	55,13,187-00
	Less: Awarded by Tribunal	11,12,187-00
	Enhanced compensation	Rs.44,01,000-00



20. In the present case, the appellant/claimant has suffered severe and grievous head injuries and is unable to carry out even her day-to-day activities without medication. Doctors have deposed that her neurological condition is unlikely to improve. It has also been 10 years since the date of the accident. Given the foregoing discussions, this Court deems it apposite to enhance the interest awarded by the learned Tribunal at 8% per annum with caveat. However, no interest would be awarded on the 'Expenses of caretaker'.

21. Hence, the appellant/claimant is entitled to total compensation of **Rs.55,13,187/-** along with interest at 8% per annum from the date of petition till the date of realization.

22. Accordingly, the Court proceeds to pass the following:

ORDER

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



(ii) The Impugned Judgment and Award dated 17.06.2020 in MVC No.794/2016 passed by the learned Senior Civil Judge & Addl. MACT, Kundapura, is modified, to the extent that the appellant/claimant is entitled to enhanced compensation of **Rs.44,01,000/-** along with interest at the rate of 8% per annum in addition to **Rs.11,12,187/-** already awarded by the learned Tribunal.

(iii) The remaining portion of the Impugned Award of the learned Tribunal remains undisturbed.

(iv) The respondent No.2/Insurance Company shall deposit the enhanced compensation with interest applicable thereon, within a period of eight weeks from the date of receipt of a copy of this judgment;

(v) On such deposit of compensation, the same shall be released in favour of the



appellant/claimant, on filing of an appropriate application by the appellant/claimant for withdrawal of the enhanced amount.

(vi) The Registry is directed to draw the modified Award accordingly.

(vii) The Registry is directed to transmit a copy of this judgment to the concerned Tribunal.

(viii) No order as to costs.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

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List No.: 2 Sl No.: 1