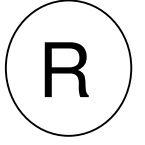




CNR: KAHC030235292020

NC: 2026:KHC-K:6318
MFA No. 200873 of 2021
C/W MFA No. 200772 of 2021



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 5TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE K V ARAVIND

MISCL. FIRST APPEAL NO. 200873 OF 2021 (MV-I)

C/W

MISCL. FIRST APPEAL NO. 200772 OF 2021 (MV-I)

IN MFA No. 200873/2021

BETWEEN:

CHANDRAKANTH S/O RACHAPPA KADAGUD,
AGE ABOUT 31 YEARS,
OCC.NEKRTC DRIVER,
CUM-CONDUCTOR SHAHAPUR DEPOT.
SHAHAPUR, NOW NIL,
R/O SAGAR (B),
SHAHAPUR TALUKA DIST.YADGIR-585223

...APPELLANT

(BY SRI. SIDRAMREDDY VENKANNA PARADDY, ADVOCATE)

AND:

1. MANZOOR AHMED
S/O ABDUL RAHMAN,
AGE:58 YEARS, OCC:BUSINESS,
R/O TIPPANATGI VILLAGE,
TQ.SHORAPUR -585220,
DIST.YADGIR (OWNER OF OFFENDING LORRY
(H.G.V)
VEHICLE BEARING NO.AP-20-Y-0459)





CNR: KAHC030235292020

NC: 2026:KHC-K:6318
MFA No. 200873 of 2021
C/W MFA No. 200772 of 2021

2. THE BRANCH MANAGER,
BHARTI AXA GENERAL INSURANCE CO. LTD.,
CENTRAL BUILDING 1ST FLOOR, OPP.OLD POLICE
STATION, DHARAWAD ROAD,
VIDYANAGAR, HUBLI-580021
(INSURER OF OFFENDING LORRY (H.G.V)
VEHICLE BEARING NO.AP-20-Y-0459
3. ANNARAY S/O SHIVASHARANAPPA BELEBHAVI,
AGED ABOUT 38 YEARS, OCC:BUSINESS,
R/O BENNUR VILLAGE, TQ.JEWARGI,
DIST.KALABURAGI-585310
(OWNER OF OFFENDING LORRY (H.G.V) VEHILCE
BEARING NO.KL-11-L-4316)
4. SRI RAM GENERAL INSURANCE CO. LTD.,
THROUGH ITS BRANCH MANAGER,
CTS NO.477/1M-1 1ST FLOOR, V,A KALABURAGI
HALLMARK BUILDING, DESAI CROSS,
PINTO ROAD, HUBLI-580020
(INSURER OF OFFENDING LORRY (H.G.V) VEHICLE
BEARING NO.KL-11-L-4316)

...RESPONDENTS

(BY SRI MANJUNATH MALLAYYA SHETTY, ADVOCATE FOR R2;
SRI SUBHASH MALLAPUR, ADVOCATE FOR R4;
V/O DTD.04.06.2026 NOTICE TO R1 & R3
IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
PRAYING TO, A) CALL FOR THE RECORDS IN MVC NO. 02/2017
PASSED BY THE SENIOR CIVIL JUDGE AND ADDL. MACT-4 AT
SHAHAPUR. B) WHEREFORE IT IS HEREBY PRAYED THAT, THIS
HON'BLE COURT BE PLEASED TO ALLOW THE ABOVE MISC.
FIRST APPEAL AND AWARD COMPENSATION OF RS.
14,00,000/- ALONG WITH INTEREST AT 12% PER ANNUM BY
MODIFYING THE JUDGMENT AND AWARD DATED 25.06.2020
PASSED BY THE SENIOR CIVIL JUDGE AND JMFC AND ADDL.
MACT-4 AT SHAHAPUR, IN MVC NO. 02/2017. AND ETC.



CNR: KAHC030235292020

NC: 2026:KHC-K:6318
MFA No. 200873 of 2021
C/W MFA No. 200772 of 2021

IN MFA NO. 200772/2021

BETWEEN:

MAHANTESH
S/O BASAPPA KONDAGULI @ PUJARI,
AGE ABOUT 30 YEARS,
OCC:NEKRTC DRIVER SHAHAPUR DEPOT,
SHAHAPUR, NOW NIL,
R/O VILLAGE IVOOR / YEWUR,
SHAHAPUR TALUKA,
DIST.YADGIR-585224.

...APPELLANT

(BY SRI. SIDRAMREDDY VENKANNA PARADDY, ADVOCATE)

AND:

1. MANZOOR AHMED
S/O ABDUL RAHMAN,
AGE:58 YEARS,
OCC:BUSINESS,
R/O TIPPANATGI VILLAGE,
TQ.SHORAPUR-585220,
DIST.YADGIR.
(OWNER OF OFFENDING LORRY
(H.G.V) VEHICLE BEARING NO.AP-20-Y-04589).
2. THE BRANCH MANAGER,
BHARTI AXA GENERAL INSURANCE CO. LTD.,
CENTRAL BUILDING 1ST FLOOR, OPP.OLD POLICE
STATION, DHARAWAD ROAD, VIDYANAGAR,
HUBLI-580021
(INSURER OF OFFENDING LORRY H.G.V)
VEHICLE BEARING NO.AP-20-Y-0459.
3. ANNARAY
S/O SHIVASHARANAPPA BELEBHAVI,
AGED ABOUT 38 YEARS, OCC:BUSINESS,



CNR: KAHC030235292020

NC: 2026:KHC-K:6318
MFA No. 200873 of 2021
C/W MFA No. 200772 of 2021

R/O BENNUR VILLAGE, TQ.JEWARGI,
DIST.KALABURAGI-585310,
(OWNER OF OFFENDING LORRY (H.G.V) VEHICLE
BEARING NO.KL-11-L-4316).

4. SRI RAM GENERAL INSURANCE CO. LTD.
THROUGH ITS BRANCH MANAGER,
CTS NO.477/1M-1,
1ST FLOOR, V.A KALABURAGI
HALLMARK BUILDING,
DESAI CROSS,
PINTO ROAD, HUBLLI-580020
(INSURER OF OFFENDING LORRY (H.G.V)
VEHICLE BEARING NO.KL-11-L-4316)

...RESPONDENTS

(BY SRI MANJUNATH MALLAYYA SHETTY,
ADVOCATE FOR R2;
SRI SUBHASH MALLAPUR, ADVOCATE FOR R4;
V/O DTD.25.08.2022 NOTICE TO R1 AND R3 IS
DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV
ACT, PRAYING TO a) CALL FOR THE RESOCRD IN MVC
NO.01/2017 PASSED BY THE SENIOR CIVIL JUDGE AND
JMFC ADDL. MACT-4 AT SHAHAPUR. b) ALLOW THE ABOVE
MISC. FIRST APPEAL AND AWARD COMPENSATION OF
RS.14,39,000/- ALONG WITH INTEREST AT 12% P.A BY
MODIFYING THE JUDGMENT AND AWARD DATED
25.06.2020 PASSED BY THE SENIOR CIVIL JUDGE AND
JMFC AND ADDL. MACT-4 AT SHAHAPUR, IN MVC
NO.01/2017. AND ETC.

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

CORAM: HON'BLE MR. JUSTICE K V ARAVIND



CNR: KAHC030235292020

NC: 2026:KHC-K:6318
MFA No. 200873 of 2021
C/W MFA No. 200772 of 2021

ORAL JUDGMENT

Heard Sri. Sidramreddy Venkanna Paraddy, learned counsel appearing for the appellants-claimants, Sri. Manjunath Mallayya Shetty and Sri. Subhash Mallapur, learned counsel appearing for respondent Nos. 2 and 4-insurers.

2. These appeals arise out of the judgment and award dated 25.06.2020 passed in MVC Nos.1/2017 and 2/2017 by the Senior Civil Judge and JMFC & Addl. MACT-4, Shahapur (for short, "the Tribunal").

2.1 These appeals are filed by the claimants seeking enhancement of compensation. The parties are referred to as per their ranks before the Tribunal.

3. The claimant in both cases filed petitions seeking compensation for the accidental injuries suffered on 16.04.2016, involving NEKRTC bus bearing registration No. KA-33/F-0112 and lorry bearing registration No. AP-2Y-0459. The insurer filed objections denying the petition averments. In MVC No. 01/2017 and MVC No. 02/2017, PW-2, the doctor, was examined to prove the disability.



CNR: KAHC030235292020

NC: 2026:KHC-K:6318
MFA No. 200873 of 2021
C/W MFA No. 200772 of 2021

3.1 The Tribunal, considering that there was no reduction in income, as the claimants in both cases were employed under the Transport Corporation and continued to draw the same salary, has not awarded any compensation under the head of loss of future income.

3.2 The Tribunal, in total, awarded compensation of Rs. 2,06,000/- with 6% interest in MVC No. 02/2017 and Rs. 1,61,000/- with 6% interest in MVC No. 01/2017.

4. Sri. Sanganagouda Biradar, learned counsel appearing for the claimants, submits that, due to the accidental injuries, the claimants have been assigned the post of Attender, whereas, prior to the accident, they were driver, driver-cum-conductor respectively. It is submitted that, by virtue of the injuries and disability, the claimants have been disqualified from working as drivers, and all the benefits that would have accrued had they continued as drivers have been deprived.

4.1 It is submitted that the Tribunal committed an error in not awarding compensation under the head of loss of future income. It is submitted that the claimant in MVC No. 02/2017



CNR: KAHC030235292020

NC: 2026:KHC-K:6318
MFA No. 200873 of 2021
C/W MFA No. 200772 of 2021

was an inpatient for a period of 15 days and incurred incidental expenses. Similarly, the claimant in MVC No. 01/2017 was an inpatient for a period of 9 days and incurred incidental expenses.

5. *Per contra*, learned counsel appearing for the insurer submits that, to award compensation under the head of loss of future income, there should be a loss of income. In the present case, the claimants have continued to draw the same salary. As there is no loss of income, the Tribunal is justified in not awarding compensation under the head of loss of future income.

5.1 It is submitted that whether the claimants in both cases have been deprived of any better prospects or contingencies cannot be considered. However, learned counsel submits that, as per the record, the claimants have been removed from the post of driver-cum-conductor and driver and are assigned attendant duties, with the very same pay protection. Learned counsel further submits that the compensation awarded under various heads is just and reasonable and no interference is required.



CNR: KAHC030235292020

NC: 2026:KHC-K:6318
MFA No. 200873 of 2021
C/W MFA No. 200772 of 2021

6. Considered the submissions made by the learned counsel for the parties.

7. The issue that arises for consideration is:

"Whether the Tribunal is justified in not awarding compensation under the head of loss of future income, as the claimants' pay is protected, though they have been assigned different duties?"

8. It is an undisputed fact that, as on the date of the accident, the claimants were working as driver-cum-conductor and driver respectively in a Transport Corporation. The claimants undoubtedly possessed driving skills and would be entitled to increments or any better prospects as skilled drivers. In view of the injuries and disqualification as drivers, a sympathetic decision would have been made by the Transport Corporation by assigning different duties, in the present case, as Attenders. The post of Attender and driver cannot be considered equal posts. Though pay protection is given, there is a reduction in category, which is lower than the post of driver. If the claimants had continued as driver-cum-conductor and driver respectively, it would have been attached with certain



CNR: KAHC030235292020

NC: 2026:KHC-K:6318
MFA No. 200873 of 2021
C/W MFA No. 200772 of 2021

perquisites, which the claimants would be deprived of. Hypothetically, the claimants had an option to resign or retire voluntarily or on superannuation and continue to work as skilled drivers. These prospects are no longer available in view of the disqualification suffered due to the accidental injuries. The Tribunal, while considering this issue, committed an error in placing much reliance on the pay protection without examining the opportunities that are deprived to the claimants.

9. PW-2 in MVC No. 02/2017 has assessed the disability at 25%, and PW-2 in MVC No. 01/2017 has assessed the disability at 20%. Usually, 1/3rd of the permanent disability is considered for the purpose of compensation. However, in exceptional cases, the functional disability can be assessed. In the present case, the undisputed fact of change in work from driver to Attender itself is evidence of the functional disability. This Court, in the facts of the present case, is of the opinion that 15% is to be considered as functional disability for the purpose of compensation in both cases.

9.1 The Tribunal has not assessed the monthly income in both the cases. There is no evidence on record to consider the



CNR: KAHC030235292020

NC: 2026:KHC-K:6318
MFA No. 200873 of 2021
C/W MFA No. 200772 of 2021

loss of future income. In the light of the observations made hereinabove, due to the accidental injuries, the claimants have suffered loss of future income, and the disability for such purpose is taken at 15%. The assessment of income is to be undertaken by the Tribunal based on the evidence to be adduced by the parties. For the limited purpose of determining the loss of future income, the matter requires reconsideration.

10. The claimant in MVC No. 02/2017 was an inpatient for a period of 15 days and had undergone surgery with implants. The claimant in MVC No. 01/2017 was an inpatient for a period of 09 days and had undergone surgery with implants. Undoubtedly, the claimants would have suffered pain and incurred expenses towards attendant, conveyance and medical expenses.

11. Though the Tribunal has awarded compensation under various heads, this Court is inclined to interfere and enhance the compensation under a few heads:



CNR: KAHC030235292020

NC: 2026:KHC-K:6318
MFA No. 200873 of 2021
C/W MFA No. 200772 of 2021

IN MVC No.02/2017:

Sl. No.	Heads of compensation	Awarded by the Tribunal	Enhanced by this Court
01	Loss of future income	----	---
02	Medical expenses	1,13,000/-	1,13,000/-
03	Future medical expenses	20,000/-	20,000/-
04	Pain and suffering	30,000/-	30,000/-
05	Loss of amenities	20,000/-	20,000/-
06	Attendant charges	4,000/-	15,000/-
07	Towards conveyance	15,000/-	15,000/-
08	Food and nourishment	4,000/-	10,000/-
	Total	2,06,000/-	2,23,000/-
Enhanced Compensation			17,000/-

IN MVC No.01/2017:

Sl. No.	Heads of compensation	Awarded by the Tribunal	Enhanced by this Court
01	Loss of future income	---	---
02	Medical expenses	48,000/-	48,000/-
03	Future medical expenses	15,000/-	15,000/-
04	Pain and suffering	60,000/-	60,000/-



CNR: KAHC030235292020

NC: 2026:KHC-K:6318
MFA No. 200873 of 2021
C/W MFA No. 200772 of 2021

05	Loss of amenities	20,000/-	20,000/-
06	Attendant charges	4,000/-	15,000/-
07	Towards conveyance	10,000/-	10,000/-
08	Food and nourishment	4,000/-	10,000/-
	Total	1,61,000/-	1,78,000/-
Enhanced Compensation			17,000/-

12. Accordingly, the following:

ORDER

- I. Both the appeals are ***allowed-in-part***.
- II. The judgment and award dated 25.06.2020 passed in MVC Nos. 02/2017 and 01/2017 by the Senior Civil Judge and JMFC & Addl. MACT-4, Shahapur, stand ***modified***.
- III. The claimant in MVC No. 1/2017 is entitled to a total compensation of Rs.1,78,000/-.
- IV. The claimant in MVC No. 2/2017 is entitled to a total compensation of Rs.2,23,000/-.
- V. The matter is ***remitted*** back to the Tribunal in both the cases for undertaking the limited exercise as stated above.



CNR: KAHC030235292020

NC: 2026:KHC-K:6318
MFA No. 200873 of 2021
C/W MFA No. 200772 of 2021

- VI. As both parties are before this Court, to avoid delay and service of fresh notice, they shall appear before the Tribunal without awaiting further notice on 29th September 2026.
- VII. Considering that the accident occurred in the year 2016, the Tribunal shall complete the remand proceedings within a period of three months from the date of appearance.
- VIII. The other conditions imposed by the Tribunal are maintained.
- IX. Draw the modified award accordingly.
- X. No order as to costs.

Sd/-
(K V ARAVIND)
JUDGE

MSR
List No.: 1 Sl No.: 2
CT:PK