



CNR: KAHC010425602019

NC: 2026:KHC:53651
MFA No. 677 of 2019



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF SEPTEMBER, 2026

BEFORE

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO. 677 OF 2019 (WC)

BETWEEN:

N.SURESH NAIK
S/O NOORA NAIK,
AGED ABOUT 23 YEARS,
R/O MEGLAHATTI,
THOLAHUNSE POST,
DAVANAGERE TQ & DISTRICT-577 002.

...APPELLANT

(BY SRI. SREE HARSHA.A.K., ADVOCATE)

AND:

1. MANIKYAM.K
S/O KORPU SWAMY,
MAJOR,
OWNER OF TRACTOR-TRAILER
BEARING REG NO.KA-17/TA-6348-49,
R/O CHATTOBANAHALLI CAMP,
KURKI POST,
DAVANGERE DISTRICT-577 002.

2. CHOLAMANDALAM MS GEN INS CO. LTD.,
REPRESENTED BY ITS MANAGER,
BRANCH OFFICE,
1ST FLOOR, KALBURGI SQUARE,
DESHPANDE NAGAR,
HUBLI-580 029.

...RESPONDENTS

(BY SRI. BALU MAHENDRA.Y.M., ADVOCATE FOR R1;
SRI. H.S.LINGARAJ., ADVOCATE FOR R2)



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THIS MFA IS FILED UNDER SECTION 30(1) OF THE EMPLOYEE'S COMPENSATION ACT, 1923, AGAINST THE JUDGMENT AND AWARD DATED 20/04/2017, PASSED IN ECA NO.79/2015, ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE & MEMBER, MACT-IV, DAVANAGERE, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

1. This appeal has been filed seeking to challenge a Judgment and Award dated 20.04.2017, in E.C.A.No.79/2015, passed by the learned Principal Senior Civil Judge and MACT-IV at Davanagere, [hereinafter referred to as the "Impugned Award"]. By the Impugned Award, a claim petition filed under Section 22 of the Workmen's Compensation Act, 1923 [now called Employees Compensation Act,] [for short "E.C. Act"] was partly allowed by the learned Tribunal and the compensation in a sum of Rs.2,48,842/- has been awarded in favour of the appellant with interest at the rate of 12% per annum,



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directing that payment be made by the Owner of the offending vehicle.

2. Given the pendency of the matter and with the consent of the parties, the matter is taken up for final hearing and disposal at the admission stage.

3. The brief facts are, that the appellant was working under the employment of respondent No.1 as Hamali [porter] in Tractor & Trailer bearing Registration No.KA-17/TA-6348-49. On 22.06.2010, the appellant, on instructions of his employer was on duty for loading and unloading manure for transportation from Hunsekatte to Chattobanahalli and moving in the Tractor. When the said Tractor reached near Chattobanahalli Village, at about 5:45 p.m., the said Tractor met with an accident, as a result of which, the Tractor fell down in the road side channel. The appellant who was discharging his duty sustained injuries to his right leg, left leg and sustained fracture of both bones of middle third and left leg and fracture of both bones of middle third of left leg and injury



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over other parts of his body. He was immediately shifted to SS Hospital, Davanagere and thereafter shifted to City Central Hospital, Davanagere, where he underwent treatment by way of operation and underwent surgeries. On account of the accidental injuries sustained, the appellant filed a claim petition before the learned Tribunal.

4. The learned counsel for the appellant submits that the challenge in the present appeal is on two grounds. Firstly, he submits that the income was wrongly calculated. Although the accident took place on 22.06.2010, the notional income was not taken into consideration and the income was taken at only Rs.4,500/- per month. Relying on a Circular No.37/2010 dated 18.06.2010 issued by the Karnataka Employers' Association, the learned counsel drew the attention of the Court to the Notification bearing No.S.O.1258(E), dated 31.05.2010, published in the Extraordinary Gazette, Part II Section 3(ii), Ministry of Labour & Employment, dated 31.05.2010, which has fixed the monthly wages at



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Rs.8,000/-. Therefore, the learned counsel submits that even though the accident took place on 22.06.2010, the notional income was not taken into consideration by the learned Trial Court.

4.1 Secondly, the learned counsel for the appellant submits that the factor of '225' adopted by the learned Tribunal is erroneous for the reason that, as per Schedule IV to the E.C.Act, the appropriate factor for the age of '19 years' is 225.22.

4.2 Further, the learned counsel for the appellant submits that the directions issued by the learned Tribunal are not in accordance with the settled position of law. It is contended that the learned Tribunal has absolved the Respondent No.2/Insurance Company from its liability completely, when in fact an order to 'pay and recover' should have been passed. In his support, he seeks to rely upon a judgment of the Supreme Court in the case of **V. Renganathan and Another Vs. Branch Manager, United India Insurance Company Limited and**



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Another¹. In addition, the learned counsel has also produced a copy of the judgment passed by a Co-ordinate Bench of this Court in the case of ***United India Insurance Co. Ltd. Vs. Narayanaswamy and others²***, in this behalf.

5. The learned counsel for the respondent No.1/owner, while fairly submits that the income in the year 2010 should have been taken at Rs.8,000/- per month, refutes the other contentions of the appellant. However, it is contended that the factor of "225.22" adopted by the learned Tribunal is proper and does not call for interference.

6. An examination of the undisputed facts reveals that so far concerns the income taken by the learned Tribunal, admittedly, in view of the Notification issued by the Government of India, the income should have been taken at Rs.8,000/- per month as the accident has occurred in the year 2010.

¹ 2022 SCC OnLine SC 2569

² MFA No.4431/2024[MV-D] v/o dt.01.07.2025



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7. Accordingly, taking into consideration 60% of the income at Rs.8,000/- per month (Rs.4,800/-), disability at 30% and adopting the factor of 225.22, the calculation of compensation is to be revised as follows:

Sl. No.	Particulars	Amount (Rs.)
1	Towards Disability [Rs.8,000/- x 60% x 225.22 x 30% = =3,24,316.80 rounded off to 3,24,317/-]	3,24,317/-
2	Medical Expenses	66,592/-
	TOTAL	3,90,909/-
	Less: Awarded by the Tribunal	2,48,842/-
	Enhanced compensation	1,42,067/-

7.1 Thus, taking into consideration 60% of the notional income at Rs.8,000/- per month [i.e.Rs.4,800/-], disability at 30% and adopting factor of '225.22' as per Schedule IV of the E.C. Act, the appellant is entitled to an enhanced compensation in a sum of **Rs.1,42,067/-**, with interest at the rate of 12% per annum.

8. On the second ground taken by the learned counsel for the appellant, the Supreme Court, while dealing with the issue in **V.Renganathan's case** has observed that



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the High Court ought to have directed the Insurance Company to pay the amount of compensation and granted liberty to recover the same from the Tractor owner. The relevant extract is set out below:

"(5.) We find no fault with the finding of the High Court that the Insurance Company could not be held liable for the payment of compensation in view of the judgment of 3-Judges' Bench of this Court in the case of New India Assurance Co.Ltd. Vs. Asha Rani and Ors. Reported in 2003 (2) SCC 223. However, **at the same time, we find that in view of the settled position, the High Court ought to have partly allowed the appeal.** We may gainfully refer to the observations of this Court in similar facts at paragraph Nos.10 and 11 of the Judgement of this Court in Shivaraj Vs. Rajendra and Anr. Reported in 2018(10)SCC 432.

(6.) As already observed, the facts in the present case are similar to the facts in the case of Shivaraj v. Rajendra (supra).

(7.) In the present case also, **the High Court ought to have partly allowed the appeal preferred by the Insurance Company and ought to have directed it to pay the amount of compensation to the appellants and granted liberty to recover the same from the tractor owner.**

(8.) We are, therefore, inclined to allow the appeal. We uphold the finding of the High Court that the Respondent No. 1-Insurance Company cannot be held liable for payment of compensation. **At the same time, we direct the Respondent No. 1-Insurance Company to pay the compensation to the appellants-claimants as determined by the learned Tribunal with interest as specified in the order within three months from today with liberty to recover the said amount from the owner of the vehicle.**"

[Emphasis Supplied]



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8.1 A Coordinate bench of this Court in the case of **Narayanaswamy's case** also while dealing with an appeal preferred by the Insurance Company, has observed that the Insurer cannot be absolved of all its liability and the Insurer must pay the claimant and recover the same from the owner of the Tractor. It is apposite to set out the relevant extract below:

*"4. On the second ground, this Court finds force in the submission on behalf of the claimants/respondents that in very similar circumstances, **the Apex Court in V. Renganathan and another vs. Branch Manager, United India Insurer Limited and another[2023 ACJ 623]** has directed the Insurer to pay the claimants and recover the compensation paid from the owner of the tractor. Sri L. Sreekanta Rao is not able to dispute that in the case on hand before the Apex Court, the children of the deceased who fell from the mudguard of a tractor are awarded compensation on terms as aforesaid."*

[Emphasis Supplied]

9. Thus, in view of the settled position of law and the judgment of the Supreme Court in **V. Renganathan's case**, the respondent No.2/ Insurance Company is liable to pay the compensation awarded by the learned Tribunal as well as the enhanced compensation by this Court to the



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appellant and recover the same from the respondent No.1/owner of the Tractor, in accordance with law.

10. This Court, on 11.07.2022, has allowed I.A.No.1/2019 and condoned the delay of 578 days in filing the appeal, subject to the condition that the appellant shall not be entitled to interest for the delayed period. Accordingly, the appellant is not entitled to any interest on the enhanced amount for the delayed period of 578 days.

11. Accordingly, this Court proceeds to pass the following:

ORDER

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

(ii) The Judgment and Award dated 20.04.2017, in ECA.79/2015, passed by the learned Principal Senior Civil Judge and MACT-IV at Davanagere, is modified, enhancing the compensation by **1,42,067/-** along with interest at 12% per annum.



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(iii) In view of the order dated 11.07.2022, the appellant is not entitled to interest on the enhanced amount for the delayed period of 578 days in filing the appeal.

(iv) The respondent No.2/Insurance company is directed to pay the enhanced compensation with interest as awarded by the learned Tribunal within eight weeks from today. However, the Insurer is at liberty to recover the same from the owner of the Tractor, in accordance with law.

(v) The Impugned Award of the learned Tribunal remains undisturbed except as set forth hereinabove.

(vi) On deposit of compensation, the same shall be released in favour of the appellant/claimant, on filing of an appropriate application for withdrawal of the enhanced amount.

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



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(viii) The Registry is directed transmit a copy of this judgment to the concerned Tribunal, along with its records.

(ix) No order as to costs.

Digitally signed by TARA
VITASTA GANJU
Location: HIGH COURT
OF KARNATAKA
(TARA VITASTA GANJU)
JUDGE

BMV*

List No.: 1 Sl No.: 17