



NC: 2024:KHC-D:5920

MFA No.103074/2022 C/W MFA 102113/2022,
MFA No.102114/2022, MFA No.102680/2022,
MFA No.102794/2022, MFA No.102795/2022,
MFA No.102796/2022, MFA No.102817/2022,
MFA No.103062/2022, MFA No.103064/2022,
MFA No.103072/2022, MFA No.103073/2022,
MFA No.100514/2023, MFA No.100517/2023

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 28TH DAY OF MARCH, 2024

BEFORE

THE HON'BLE MR JUSTICE VIJAYKUMAR A.PATIL

MISCELLANEOUS FIRST APPEAL NO.103074 OF 2022 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO.102113 OF 2022 (MV-I)

MISCELLANEOUS FIRST APPEAL NO.102114 OF 2022 (MV-I)

MISCELLANEOUS FIRST APPEAL NO.102680 OF 2022 (MV-I)

MISCELLANEOUS FIRST APPEAL NO.102794 OF 2022 (MV-I)

MISCELLANEOUS FIRST APPEAL NO.102795 OF 2022 (MV-I)

MISCELLANEOUS FIRST APPEAL NO.102796 OF 2022 (MV-I)

MISCELLANEOUS FIRST APPEAL NO.102817 OF 2022 (MV-I)

MISCELLANEOUS FIRST APPEAL NO.103062 OF 2022 (MV-I)

MISCELLANEOUS FIRST APPEAL NO.103064 OF 2022 (MV-I)

MISCELLANEOUS FIRST APPEAL NO.103072 OF 2022 (MV-I)

MISCELLANEOUS FIRST APPEAL NO.103073 OF 2022 (MV-I)

MISCELLANEOUS FIRST APPEAL NO.100514 OF 2023 (MV-I)

MISCELLANEOUS FIRST APPEAL NO.100517 OF 2023 (MV-I)

IN MFA NO.103074 OF 2022

BETWEEN:

SMT. VEENA W/O. SOMASHEKAR PATTAR,
AGE: 49 YEARS, OCC: GOLDSMITH AND
TAILORING (NOW NIL), R/O. VIDYA NAGAR,
TQ: BAILHONGAL-591102, DIST: BELAGAVI.

...APPELLANT

(BY SRI. VIJAYKUMAR KOTIN, ADVOCATE)

AND:

1. SHRI. VITHAL KAREPPA GULLI,
AGE: 54 YEARS, OCC: TRANSPORT BUSINESS,
R/O. AT DHUPADAL, POST: KARLKATTI,
TQ: SOUNDATTI, DIST: BELAGVI 591126.
2. THE MANAGER,
ORIENTAL INSURANCE COMPANY LTD,
ENKAY COMPLEX, 2ND FLOOR,

Digitally signed
by ROHAN
HADIMANI T
Location: HIGH
COURT OF
KARNATAKA



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MFA No.100514/2023, MFA No.100517/2023**

KESHWAPUR CIRCLE, OPP: FATIMA
COLLEGE, HUBLI-580020.

...RESPONDENTS

(BY SMT. RATNAMALA G. H, ADV. FOR R2;
NOTICE TO R1 SERVED)

IN MFA NO.102113 OF 2022

BETWEEN:

SMT. SHIVABASAVVA W/O. IRAPPA BASAVANNAVAR,
AGE: 53 YEARS, OCC: BUSINESS,
R/O. VIDYA NAGAR, TQ: BAILHONGAL-591102,
DIST: BELAGAVI.

...APPELLANT

(BY SRI. SIDDAPPA S. SAJJAN, ADV. FOR
SRI. MADANMOHAN M. KHANNUR, ADVOCATES)

AND:

1. SHRI. VITTAL S/O. KAREPPA GULLI,
AGE: 53 YEARS, OCC: TRANSPORT BUSINESS,
R/O. AT DHUPADAL, POST: KARLKATTI,
TQ: SOUNDATTI-591126, DIST: BELAGAVI.
2. THE BRANCH MANAGER,
ORIENTAL INSURANCE COMPANY LIMITED,
MARCHANT BANK BUILDING,
1ST FLOOR, S.R. CIRCLE,
BELAGAVI-590002, KARNATAKA

...RESPONDENTS

(BY SMT. RATNAMALA G. H, ADV. FOR R2;
NOTICE TO R1 SERVED)

IN MFA NO.102114 OF 2022

BETWEEN:

SRI. MANJUNATH S/O. VEERAPPA HARAKUNI,
AGE: 24 YEARS, OCC: ANIMAL HUSBANDRY (NOW NIL),
R/O. MRUTUNJAY NAGAR, TQ: BAILHONGAL-591102,
DIST: BELAGAVI.

...APPELLANT



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MFA No.103072/2022, MFA No.103073/2022,
MFA No.100514/2023, MFA No.100517/2023**

(BY SRI. SIDDAPPA S. SAJJAN, FOR
SRI. MADANMOHAN M. KHANNUR, AND
SRI. S.G. BUDAYYANAVARMATH, ADVOCATES)

AND:

1. SHRI. VITTAL S/O. KAREPPA GULLI,
AGE: 53 YEARS, OCC: TRANSPORT BUSINESS,
R/O. AT DHUPADAL, POST: KARLKATTI,
TQ: SOUNDATTI-591126, & DIST: BELAGAVI.
2. THE BRANCH MANAGER,
ORIENTAL INSURANCE COMPANY LIMITED,
MARCHANT BANK BUILDING,
1ST FLOOR, S.R. CIRCLE,
BELAGAVI-590002, KARNATAKA.

...RESPONDENTS

(BY SMT. RATNAMALA G. H, ADV. FOR R2;
NOTICE TO R1 SERVED)

IN MFA NO.102680 OF 2022

BETWEEN:

SRI. HULLAYYA S/O. NAGAYYA PUJER,
AGE: 44 YEARS, OCC: MANSON WORK,
R/O. K.C. NAGAR, II CROSS, BAILHONGAL,
TQ: BAILHONGAL-591102, DIST: BELAGAVI.

...APPELLANT

(BY SRI. SIDDAPPA S.SAJJAN, ADV. FOR
SRI. MADANMOHAN M. KHANNUR, ADVOCATE)

AND:

1. SHRI. VITHAL S/O KAREPPA GULLI
AGE:53 YEARS, OCC: TRANSPORT BUSINESS
R/O AT DHUPADAL, POST: KARLKATTI,
TQ: SOUNDATTI - 591126 AND DIST: BELAGAVI.
2. THE MANAGER,
ORIENTAL INSURANCE COMPANY LIMITED,
ENKAY COMPLEX, 2ND FLOOR,
KESHWAPUR CIRCLE, OPP: FATIMA



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MFA No.100514/2023, MFA No.100517/2023**

COLLEGE, HUBLI-580020, KARNATAKA.

...RESPONDENTS

(BY SMT. RATNAMALA G. H, ADV. FOR R2;
NOTICE TO R1 SERVED)

IN MFA NO.102794 OF 2022

BETWEEN:

SRI. ASHOK S/O. BASAVANEPPA JAVALI,
AGE: 70 YEARS, OCC: AGRICULTURE (NOW NILL),
R/O. 3RD CROSS, VIDYA NAGAR,
TQ: BAILHONGAL-591102, DIST: BELAGAVI.

...APPELLANT

(BY SRI. SIDDAPPA S.SAJJAN, ADV. FOR
SRI. MADANMOHAN M. KHANNUR, ADVOCATE)

AND:

1. SHRI. VITHAL S/O. KAREPPA GULLI,
AGE: 53 YEARS, OCC: TRANSPORT BUSINESS,
R/O. AT DHUPADAL, POST: KARLKATTI,
TQ: SOUNDATTI-591126, DIST: BELAGAVI.
2. THE BRANCH MANAGER,
ORIENTAL INSURANCE COMPANY LIMITED,
MARCHANT BANK, COMPLEX, 2ND FLOOR,
S.R. CIRCLE, BAILHONGAL-591102, KARNATAKA.

...RESPONDENTS

(BY SMT. RATNAMALA G. H, ADV. FOR R2;
NOTICE TO R1 SERVED)

IN MFA NO.102795 OF 2022

BETWEEN:

SMT. KAMALAWWA W/O. SHIVAPUTRAYYA HIEMATH,
AGE: 63 YEARS, OCC: KIRANI SHOP AND HOUSEWIFE,
R/O. 3RD CROSS, VIDYA NAGAR,
TQ: BAILHONGAL-591102, DIST: BELAGAVI.

...APPELLANT

(BY SRI. SIDDAPPA S.SAJJAN, FOR
SRI. MADANMOHAN M.KHANNUR AND



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MFA No.100514/2023, MFA No.100517/2023**

SRI. I. D. WANTI, ADVOCATES)

AND:

1. SHRI. VITHAL S/O. KAREPPA GULLI,
AGE: 53 YEARS, OCC: TRANSPORT BUSINESS,
R/O. AT DHUPADAL, POST: KARLKATTI,
TQ: SOUNDATTI-591126, DIST: BELAGAVI.
2. THE BRANCH MANAGER,
ORIENTAL INSURANCE COMPANY LIMITED,
MARCHANT BANK, COMPLEX, 2ND FLOOR,
S.R. CIRCLE, BAILHONGAL-591102, KARNATAKA.

...RESPONDENTS

(BY SMT. RATNAMALA G. H, ADV. FOR R2;
NOTICE TO R1 SERVED)

IN MFA NO.102796 OF 2022

BETWEEN:

SRI. SHIVAPUTRAYYA S/O. PATHRAYYA HIREMATH,
AGE: 70 YEARS, OCC: AGRICULTURE (NOW NILL),
R/O. 3RD CROSS, VIDYA NAGAR,
TQ: BAILHONGAL-591102, DIST: BELAGAVI.

...APPELLANT

(BY SRI. SIDDAPPA S.SAJJAN, ADV. FOR
SRI. MADANMOHAN M. KHANNUR, ADVOCATE)

AND:

1. SHRI. VITHAL S/O. KAREPPA GULLI,
AGE: 53 YEARS, OCC: TRANSPORT BUSINESS,
R/O. AT DHUPADAL, POST: KARLKATTI,
TQ: SOUNDATTI-591126, DIST: BELAGAVI.
2. THE BRANCH MANAGER,
ORIENTAL INSURANCE COMPANY LIMITED,
MARCHANT BANK, COMPLEX, 2ND FLOOR,
S.R. CIRCLE, BAILHONGAL-591102, KARNATAKA.

...RESPONDENTS

(BY SMT. RATNAMALA G. H, ADV. FOR R2; NOTICE TO R1 SERVED)



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IN MFA NO.102817 OF 2022

BETWEEN:

SMT. KASTURI W/O. BASAPPA UPPIN,
AGE: 54 YEARS, OCC: AGRICULTURE (NOW NILL),
R/O. VIDYA NAGAR, TQ: BAILHONGAL-591102,
DIST: BELAGAVI.

...APPELLANT

(BY SRI. SIDDAPPA S.SAJJAN, ADVOCATE FOR
SRI. MADANMOHAN M.KHANNUR, ADVOCATE)

AND:

1. SHRI. VITTAL S/O. KAREPPA GULLI,
AGE: 53 YEARS, OCC: TRANSPORT BUSINESS,
R/O. AT DHUPADAL, POST: KARLKATTI,
TQ: SOUNDATTI-591126, DIST: BELAGAVI.
2. THE BRANCH MANAGER,
ORIENTAL INSURANCE COMPANY LIMITED,
MARCHANT BANK, COMPLEX, 2ND FLOOR,
S.R. CIRCLE, BELAGAVI-590002 KARNATAKA

...RESPONDENTS

(BY SMT. RATNAMALA G. H, ADV. FOR R2;
NOTICE TO R1 DISPENSED WITH)

IN MFA NO.103062 OF 2022

BETWEEN:

SMT. NEELAMBIKA W/O. BASAYYA PUJER,
AGE: 49 YEARS, OCC: TAILORING AND
AGRICULTURE (NOW NILL),
R/O. VIDYA NAGAR, TQ: BAILHONGAL-591102,
DIST: BELAGAVI.

...APPELLANT

(BY SRI. VIJAYKUMAR KOTIN, ADVOCATE)

AND:

1. SHRI VITHAL KAREPPA GULLI



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MFA No.103072/2022, MFA No.103073/2022,
MFA No.100514/2023, MFA No.100517/2023**

AGE: 54 YEARS, OCC: TRANSPORT BUSINESS,
R/O. AT DHUPADAL, POST: KARLKATTI,
TQ: SOUNDATTI, DIST: BELAGAVI 591126.

2. THE MANAGER,
ORIENTAL INSURANCE COMPANY LTD,
MARCHANT BANK, COMPLEX, 2ND FLOOR,
S. R. CIRCLE, BAILHONGAL-591102.

...RESPONDENTS

(BY SMT. RATNAMALA G. H, ADV. FOR R2; NOTICE TO R1 SERVED)

IN MFA NO.103064 OF 2022

BETWEEN:

SMT. GANGAWWA W/O. BASAPPA KADROLLI,
AGE: 40 YEARS, OCC: TAILORING AND
AGRICULTURE (NOW NILL),
R/O. VIDYA NAGAR, TQ: BAILHONGAL-591102,
DIST: BELAGAVI.

...APPELLANT

(BY SRI. VIJAYKUMAR KOTIN, ADVOCATE)

AND:

1. SHRI VITHAL KAREPPA GULLI,
AGE: 54 YEARS, OCC: TRANSPORT BUSINESS,
R/O. AT DHUPADAL, POST: KARLKATTI,
TQ: SOUNDATTI, DIST: BELAGVI 591126.
2. THE MANAGER,
ORIENTAL INSURANCE COMPANY LTD,
ENKAY COMPLEX, 2ND FLOOR,
KESHWAPUR CIRCLE, OPP: FATIMA
COLLEGE, HUBLI-580020.

...RESPONDENTS

(BY SMT. RATNAMALA G. H, ADV. FOR R2;
NOTICE TO R1 SERVED)

IN MFA NO.103072 OF 2022

BETWEEN:

SRI. BASAYYA S/O. DANAYYA PUJER,



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MFA No.103072/2022, MFA No.103073/2022,
MFA No.100514/2023, MFA No.100517/2023**

AGE: 69 YEARS, OCC: PRIVATE JOB
AND AGRICULTURE (NOW NILL),
R/O. VIDYA NAGAR, TQ: BAILHONGAL-591102,
DIST: BELAGAVI.

...APPELLANT

(BY SRI. VIJAYKUMAR KOTIN, ADVOCATE)

AND:

1. SHRI. VITHAL KAREPPA GULLI,
AGE: 54 YEARS, OCC: TRANSPORT BUSINESS,
R/O. AT DHUPADAL, POST KARLKATTI,
TQ: SOUNDATTI, DIST: BELAGAVI 591126.
2. THE MANAGER,
ORIENTAL INSURANCE COMPANY LTD,
ENKAY COMPLEX, 2ND FLOOR,
KESHWAPUR CIRCLE, OPP: FATIMA
COLLEGE, HUBLI-580020.

...RESPONDENTS

(BY SMT. RATNAMALA G. H, ADV. FOR R2;
NOTICE TO R1 SERVED)

IN MFA NO.103073 OF 2022

BETWEEN:

SMT. SHIVALEELA W/O. RAVINDRA BANI,
AGE: 44 YEARS, OCC: TAILORING AND
AGRICULTURE (NOW NILL),
R/O. VIDYA NAGAR, TQ: BAILHONGAL-591102,
DIST: BELAGAVI.

...APPELLANT

(BY SRI. VIJAYKUMAR KOTIN, ADVOCATE)

AND:

1. SHRI VITHAL KAREPPA GULLI
AGE: 54 YEARS, OCC: TRANSPORT BUSINESS,
R/O. AT DHUPADAL, POST: KARLKATTI,
TQ: SOUNDATTI, DIST: BELAGVI 591126.



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2. THE MANAGER,
ORIENTAL INSURANCE COMPANY LTD,
ENKAY COMPLEX, 2ND FLOOR,
KESHWAPUR CIRCLE, OPP: FATIMA
COLLEGE, HUBLI-580020.

...RESPONDENTS

(BY SMT. RATNAMALA G. H, ADV. FOR R2;
NOTICE TO R1 SERVED)

IN MFA NO.100514 OF 2023

BETWEEN:

SMT. KASHWAVVA W/O. NAGAPPA BUDIHAL,
AGE: 44 YEARS, OCC: TAILORING AND
AGRICULTURE (NOW NIL),
R/O. VIDYA NAGAR, TQ: BAILHONGAL-591102,
DIST: BELAGAVI.

...APPELLANT

(BY SRI. VIJAYKUMAR KOTIN, ADVOCATE)

AND:

1. SHRI. VITHAL KAREPPA GULLI,
AGE: 54 YEARS, OCC: TRANSPORT BUSINESS,
R/O. AT DHUPADAL, POST: KARLKATTI,
TQ: SOUNDATTI, DIST: BELAGAVI 591126.
2. THE MANAGER,
ORIENTAL INSURANCE COMPANY LTD,
ENKAY COMPLEX, 2ND FLOOR,
KESHWAPUR CIRCLE, OPP: FATIMA
COLLEGE, HUBLI-580020.

...RESPONDENTS

(BY SMT. RATNAMALA G. H, ADV. FOR R2;
NOTICE TO R1 SERVED)

IN MFA NO.100517 OF 2023

BETWEEN:

SRI. CHANDRASHEKAR SOMALINGA BUDIHAL,



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MFA No.100514/2023, MFA No.100517/2023**

AGE: 44 YEARS, OCC: ELECTRICIAN, WIREMAN
AND AGRICULTURE, (NOW NIL),
R/O. VIDYA NAGAR, TQ: BAILHONGAL-591102.
DIST: BELAGAVI.

...APPELLANT

(BY SRI. VIJAYKUMAR KOTIN, ADVOCATE)

AND:

1. SHRI. VITHAL KAREPPA GULLI
AGE: 54 YEARS, OCC: TRANSPORT BUISNESS,
R/O. AT DHUPADAL, POST: KARLKATTI,
TQ: SOUNDATTI, DIST: BELAGAVI 591126.
2. THE MANAGER,
ORIENTAL INSURANCE COMPANY LTD,
ENKAY COMPLEX, 2ND FLOOR,
KESHWAPUR CIRCLE, OPP: FATIMA
COLLEGE, HUBLI-580020.

...RESPONDENTS

(BY SMT. RATNAMALA G. H, ADV. FOR R2;
NOTICE TO R1 SERVED)

THE ABOVE APPEALS ARE FILED UNDER SECTION 173(1) OF
MOTOR VEHICLES ACT, 1988, PRAYING TO MODIFY THE JUDGMENT
AND AWARD PASSED IN M.V.C. Nos. 1793/2018, 2550/2017,
2551/2017, 405/2018, 1342/2017, 1341/2017, 1343/2017,
2549/2017, 1791/2018, 1794/2018, 1809/2018, 1795/2018,
1792/2018, 1796/2018, ON THE FILE OF THE SENIOR CIVIL JUDGE
AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL,
BAILHONGAL, DATED 06.04.2022 ON PARTLY ALLOWING THE CLAIM
PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

THESE APPEALS COMING ON FOR ADMISSION, THIS DAY, THE
COURT DELIVERED THE FOLLOWING:



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COMMON JUDGMENT

Though these appeals are listed for admission, with the consent of learned counsel for the parties, they are taken up together for final disposal, as these appeals arise out of the same accident.

2. These appeals are filed by the claimants/injured seeking enhancement of compensation as well as challenging saddling of liability on the owner of the vehicle in question, being aggrieved by the judgments and awards dated 06.04.2022 passed in M.V.C. Nos. 1793/2018, 2550/2017, 2551/2017, 405/2018, 1342/2017, 1341/2017, 1343/2017, 2549/2017, 1791/2018, 1794/2018, 1809/2018, 1795/2018, 1792/2018 & 1796/2018, on the file of the Senior Civil Judge and Additional Motor Accident Claims Tribunal, Bailhongal, (for short, 'Tribunal').

3. Heard the learned counsel Sri.Vijaykumkar Kotin and Sri.Madanmohan M Khannur appearing for the appellants/injured and learned counsel Smt.Ratnamala G.H. for respondent No.2/Insurance Company.



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4. Learned counsel for the appellants/injured in chorus would submit that the Tribunal has committed grave error in saddling the liability on the owner of the Maxicab bearing registration No.KA-23/6933 on the ground that the driver on the wheel was not having driving license to drive the vehicle in question. It is submitted that the Tribunal without considering the income of the claimants/injured in its perspective has assessed the income of the claimants/injured on the lower side and awarded meager compensation. It is further submitted that the assessment of disability in each case are different and the Tribunal without looking into the medical evidence available on record has assessed the disability on the lower side. Hence, the same would also require to be re-assessed properly. It is also submitted that the award of compensation by the Tribunal under the heads of pain and suffering, loss of amenities, loss of income during laid-up period and compensation towards food, nourishment, attendant and conveyance charges are on the lower side, as they are not in consonance with the pleadings and evidence available on record. Thus, seeks enhancement of



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compensation appropriately by allowing the appeals filed by the claimants/injured.

5. Per contra, learned counsel Smt. Ratnamala G.H. for respondents No.2/Insurance Company vehemently opposes the appeals and submits that the Tribunal is justified in saddling the liability on the owner of the vehicle in question on the ground that the driver of the offending vehicle was not having driving license, hence, it is clear violation of conditions of policy. Thus, she seeks to uphold the finding of the Tribunal with regard to saddling of liability. It is further submitted that the Tribunal taking note of oral testimony of the claimants and medical evidence available on record has rightly assessed the income and disability and awarded just and proper compensation, in each case, which does not call for interference. Hence, she seeks dismissal of the appeals. It is also submitted that admittedly, 14 claim petitions have been filed for the accidental injuries and the documents available on record clearly indicates that the seating capacity of the offending vehicle is 12+1, hence, again there is violation of



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policy conditions. On these grounds, she seeks dismissal of the appeals filed by the claimants/injured.

6. I have heard the learned counsel for the appellants/injured and learned counsel for the respondent/Insurance Company and perused the material available on record, including the Tribunal records.

7. It is not in dispute that on 27.11.2016, all the claimants were proceedings towards Tigadolli village from Vidyanagar Bailhongal in Maxicab bearing registration No.KA-23/6933 to attend marriage function. When the said vehicle reached the spot of the accident on Bailhongal-M.K.Hubli, the driver of the said vehicle drove the same in a high speed and in a rash and negligent manner, due to which, he lost control over the vehicle and the vehicle turned turtle on the road and caused the accident. Due to the impact of the accident, all the inmates of the vehicle sustained injuries and they have been treated in different hospitals. Hence, the claim petitions have been filed by the injured/inmates of the vehicle seeking compensation for the accidental injuries. The Tribunal



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considering the evidence on record awarded compensation. Being aggrieved by the quantum of compensation, the appellants/injured are in these appeals seeking enhancement of compensation as well as praying to saddle the liability on the insurance company by directing them to pay compensation.

8. It is not in dispute that the driver of the offending vehicle was not having DL to drive the said vehicle. Taking note of the same, this Court is of the considered view that the Tribunal is justified in saddling the liability on the owner of the offending vehicle. However, this Court taking note of enunciation of law laid down by the Division Bench of this Court in ***Kumari Tejeshwini & Another Vs. Anand & Another*¹**, holds that the insurer of the vehicle is liable to pay compensation to the claimants with liberty to recover the same from the owner of the vehicle involved in the accident. The Division Bench of this Court in the judgment referred supra has followed decision of the Full Bench of this Court in ***New India***

¹ MFA No.100412/2022, dated 11.01.2024



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Assurance Company Limited Vs. Yallavva & Another².

The relevant paragraphs of the said judgment reads thus:

"10. Insofar as liability saddled on the respondent No.1/driver-cum-owner, learned counsel would submit that it is a case for pay and recovery and it is for the insurance company to pay at the first instance and to recover the same from the 1st respondent in terms of full bench of this Court in the case of **Yallavva** referred supra.

23. The Tribunal had saddled liability on the 1st respondent-owner as the 1st respondent-owner had no license to drive the vehicle. The 1st respondent/driver-cum-owner has not placed on record any document to establish that he had license. Full bench of this Court in Yallavva's case (supra) has held that wherever it is a case of no license to drive, it is a case for 'pay and recovery'. Therefore, following the decision in Yallavva's case (supra), we are of the view that it is for the insurer to pay compensation at the first instance and recover the same from the 1st respondent/driver-cum-owner of the vehicle."

9. Keeping in mind the opinion expressed by the Division Bench of this Court referred supra, this Court is of the considered view that the respondent/insurance company shall pay compensation amount to each of the claimants along with accrued interest and recover the same from the owner of the vehicle.

² ILR 2020 KAR 2239



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10. Insofar as contention of the insurer that the inmates of the vehicle in question were more than seating capacity, is concerned, the said issue is no more res-integra in view of decision of Hon'ble Apex Court in the case of ***United India Insurance Company Limited Vs. K.M.Poonam & Others³***, wherein the Hon'ble Apex Court has held that *the liability of the insurer is confined to the number of persons covered by the insurance policy and not beyond the same. Hence, the insurance company has to pay compensation to all the inmates at the first instance and is at liberty to recover the same, in respect of excess passengers/inmates, from the owner of the vehicle in question.* It would be useful to extract the paragraph-24 of the said judgment as under:

"24. *The liability of the insurer, therefore, is confined to the number of persons covered by the insurance policy and not beyond the same. case, since the insurance policy of the owner of the vehicle covered six occupants of the vehicle in question, including the driver, the liability of the insurer would be confined to six persons only, notwithstanding the larger number of persons carried in the vehicle. Such excess number of persons would have to be treated as third parties, but since no premium had been paid in the policy for them, the insurer would not be liable to make payment of the compensation amount as far as*

³ 2011 ACJ 917



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they are concerned. However, the liability of the Insurance Company to make payment even in respect of persons not covered by the insurance policy continues under the provisions of sub-section (1) of [Section 149](#) of the Act, as it would be entitled to recover the same if it could prove that one of the conditions of the policy had been breached by the owner of the vehicle. In the instant case, any of the persons travelling in the vehicle in excess of the permitted number of six passengers, though entitled to be compensated by the owner of the vehicle, would still be entitled to receive the compensation amount from the insurer, who could then recover it from the insured owner of the vehicle.”

11. In view of enunciation of law laid-down by the Hon’ble Division Bench of this Court in ***Kumari Tejeshwini*** referred supra following the decision of Full Bench of this Court in ***Yallavva’s*** case referred supra and keeping in mind the enunciation of law laid-down by the Hon’ble Apex Court in ***K.M.Poonam’s*** case referred supra, this Court holds that the finding of the Tribunal with regard to saddling of liability on the owner is upheld. However, this Court directs the insurance company to pay the compensation to all the claimants and recover the same from the owner of the vehicle.

12. Insofar as quantum of compensation is concerned, this Court re-appreciates the entire evidence available on



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record and determines the compensation in each of the cases as under:

13. In MFA No.103074/2022 (MVC No.1793/2018), the Tribunal assessed the income of the appellant at Rs.5,000/- per month, which is on the lower side. This Court re-assesses the notional income of the appellant at Rs.8,750/- per month placing reliance on the notional income chart prepared by the KSLSA. There is no dispute with regard to the age, disability and multiplier of 13. Thus, the appellant is entitled to modified compensation on the head of loss of future income due to disability as under:

$$\text{Rs.8,750} \times 12 \times 13 \times 8\% = \textbf{Rs.1,09,200/-}$$

14. This Court taking note of the injuries suffered by the appellant and duration of treatment taken by her, would award a sum of **Rs.30,000/-** towards pain and suffering as against Rs.20,000/- awarded by the Tribunal, a sum of **Rs.30,000/-** towards loss of amenities as against Rs.10,000/- and also a sum of **Rs.5,000/-** towards food, diet, nourishment and attendant charges, which the Tribunal has not awarded.



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The award of compensation on the head of medical expenses of **Rs.9,400/-** is unaltered. A sum of **Rs.26,250/-** is awarded towards loss of income during laid-up period, which the Tribunal is not awarded. Thus, in all, the appellant is entitled to modified compensation on the following heads:

Pain and suffering	Rs. 30,000/-
Medical expenses	Rs. 9,400/-
Loss of amenities	Rs. 30,000/-
Loss of income during laid-up period	Rs. 26,250/-
Food, diet, nourishment and attendant	Rs. 5,000/-
Loss of future income due to disability	Rs.1,09,200/-
Total	Rs.2,09,850/-

15. Thus, the appellant in MFA No.103074/2022 (MVC No.1793/2018) is entitled to total compensation of **Rs.2,09,850/-** as against Rs.1,01,800/- awarded by the Tribunal.

16. In MFA No.102113/2022 (MVC No.2550/2017), the Tribunal assessed the income of the appellant at Rs.3,000/- per month, which is on the lower side. This Court re-assesses the notional income of the appellant at Rs.8,750/- per month placing reliance on the notional income chart prepared by the KSLSA. There is no dispute with regard to the age, disability



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and multiplier of 5. Thus, the appellant is entitled to modified compensation on the head of loss of future income due to disability as under:

$$\text{Rs.}8,750 \times 12 \times 5 \times 17\% = \textbf{Rs.89,250/-}$$

17. This Court taking note of the injuries suffered by the appellant and duration of treatment taken by her, would award a sum of **Rs.30,000/-** towards loss of amenities as against Rs.10,000/- and a sum of **Rs.7,000/-** towards food, diet, nourishment and attendant charges as against Rs.2,000/- awarded by the Tribunal. The award of compensation on the head of medical expenses of **Rs.39,950/-** and **Rs.50,000/-** towards pain and suffering are unaltered. A sum of **Rs.26,250/-** is awarded towards loss of income during laid-up period, which the Tribunal is not awarded. Thus, the appellant is entitled to modified compensation on the following heads:

Pain and suffering	Rs. 50,000/-
Medical expenses	Rs. 39,950/-
Loss of amenities	Rs. 30,000/-
Loss of income during laid-up period	Rs. 26,250/-
Food, diet, nourishment and attendant	Rs. 7,000/-
Loss of future income due to disability	Rs. 89,250/-

Total	Rs.2,42,450/-



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18. Thus, the appellant in MFA No.102113/2022 (MVC No.2550/2017) is entitled to total compensation of **Rs.2,42,450/-** as against Rs.1,32,550/- awarded by the Tribunal.

19. In MFA No.102114/2022 (MVC No.2551/2017), the Tribunal assessed the income of the appellant at Rs.8,000/- per month, which is on the lower side. This Court re-assesses the notional income of the appellant at Rs.8,750/- per month placing reliance on the notional income chart prepared by the KSLSA. There is no dispute with regard to the age, disability and multiplier of 18. Thus, the appellant is entitled to modified compensation on the head of loss of future income due to disability as under:

$$\text{Rs.8,750} \times 12 \times 18 \times 13\% = \textbf{Rs.2,45,700/-}$$

20. This Court taking note of the injuries suffered by the appellant and duration of treatment taken by him, would award a sum of **Rs.30,000/-** towards loss of amenities as against Rs.16,000/- and a sum of **Rs.5,000/-** towards food, diet, nourishment and attendant charges as against Rs.2,000/-



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awarded by the Tribunal. The award of compensation on the head of medical expenses of **Rs.13,463/-** and **Rs.40,000/-** towards pain and suffering are unaltered. A sum of **Rs.26,250/-** is awarded towards loss of income during laid-up period as against Rs.16,000/-. Thus, the appellant is entitled to modified compensation on the following heads:

Pain and suffering	Rs. 40,000/-
Medical expenses	Rs. 13,463/-
Loss of amenities	Rs. 30,000/-
Loss of income during laid-up period	Rs. 26,250/-
Food, diet, nourishment and attendant	Rs. 5,000/-
Loss of future income due to disability	Rs.2,45,700/-
Total	Rs.3,50,413/-

21. Thus, the appellant in MFA No.102114/2022 (MVC No.2551/2017) is entitled to total compensation of **Rs.3,50,413/-** as against Rs.3,12,103/- awarded by the Tribunal.

22. In MFA No.102817/2022 (MVC No.2549/2017), the Tribunal assessed the income of the appellant at Rs.3,000/- per month, which is on the lower side. This Court re-assesses the notional income of the appellant at Rs.8,750/- per month placing reliance on the notional income chart prepared by the



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KSLSA. There is no dispute with regard to the age, disability and multiplier of 13. Thus, the appellant is entitled to modified compensation on the head of loss of future income due to disability as under:

$$\text{Rs.}8,750 \times 12 \times 13 \times 10\% = \textbf{Rs.1,36,500/-}$$

23. This Court taking note of the injuries suffered by the appellant and duration of treatment taken by her, would award a sum of **Rs.30,000/-** towards loss of amenities as against Rs.10,000/- and a sum of **Rs.5,000/-** towards food, diet, nourishment and attendant charges as against Rs.2,000/- awarded by the Tribunal. The award of compensation on the head of medical expenses of **Rs.17,273/-** and **Rs.40,000/-** towards pain and suffering are unaltered. A sum of **Rs.26,250/-** is awarded towards loss of income during laid-up period, which the Tribunal has not awarded. Thus, the appellant is entitled to modified compensation on the following heads:

Pain and suffering	Rs. 40,000/-
Medical expenses	Rs. 17,273/-
Loss of amenities	Rs. 30,000/-
Loss of income during laid-up period	Rs. 26,250/-
Food, diet, nourishment and attendant	Rs. 5,000/-
Loss of future income due to disability	Rs.1,36,500/-

Total	Rs.2,55,023/-



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24. Thus, the appellant in MFA No.102817/2022 (MVC No.2549/2017) is entitled to total compensation of **Rs.2,55,023/-** as against Rs.1,16,073/- awarded by the Tribunal.

25. In MFA No.102680/2022 (MVC No.405/2018), the Tribunal assessed the income of the appellant at Rs.8,000/- per month, which is on the lower side. This Court re-assesses the notional income of the appellant at Rs.8,750/- per month placing reliance on the notional income chart prepared by the KSLSA. There is no dispute with regard to the age, disability and multiplier of 15. Thus, the appellant is entitled to modified compensation on the head of loss of future income due to disability as under:

$$\text{Rs.8,750} \times 12 \times 15 \times 8\% = \textbf{Rs.1,26,000/-}$$

26. This Court taking note of the injuries suffered by the appellant and duration of treatment taken by him, would award a sum of **Rs.30,000/-** towards loss of amenities as against Rs.16,000/- and a sum of **Rs.10,000/-** towards food, diet, nourishment and attendant charges as against Rs.3,500/-



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awarded by the Tribunal. The award of compensation on the head of medical expenses of **Rs.16,500/-** and **Rs.40,000/-** towards pain and suffering are unaltered. A sum of **Rs.26,250/-** is awarded towards loss of income during laid-up period, which the Tribunal is not awarded. Thus, the appellant is entitled to modified compensation on the following heads:

Pain and suffering	Rs. 40,000/-
Medical expenses	Rs. 16,500/-
Loss of amenities	Rs. 30,000/-
Loss of income during laid-up period	Rs. 26,250/-
Food, diet, nourishment and attendant	Rs. 10,000/-
Loss of future income due to disability	Rs.1,26,000/-

Total	Rs.2,48,750/-

27. Thus, the appellant in MFA No.102680/2022 (MVC No.405/2018) is entitled to total compensation of **Rs.2,48,750/-** as against Rs.2,07,200/- awarded by the Tribunal.

28. In MFA No.102794/2022 (MVC No.1342/2017), this Court has gone through the reasons recorded by the Tribunal. The Tribunal has awarded a global compensation of Rs.35,817/- , which is on the lower side. This Court taking note of the injuries suffered by the appellant and duration of treatment



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taken by him, would award additional sum of **Rs.20,000/-** as a global compensation. Thus, the appellant is entitled to total compensation of **Rs.55,817/-** as against Rs.35,817/- awarded by the Tribunal.

29. In MFA No.102795/2022 (MVC No.1341/2017), the Tribunal assessed the income of the appellant at Rs.3,000/- per month, which is on the lower side. This Court re-assesses the notional income of the appellant at Rs.8,750/- per month placing reliance on the notional income chart prepared by the KSLSA. There is no dispute with regard to the age, disability and multiplier of 9. Thus, the appellant is entitled to modified compensation on the head of loss of future income due to disability as under:

$$\text{Rs.8,750} \times 12 \times 9 \times 23\% = \textbf{Rs.2,17,350/-}$$

30. This Court taking note of the injuries suffered by the appellant and duration of treatment taken by her, would award a sum of **Rs.30,000/-** towards loss of amenities as against Rs.10,000/- and a sum of **Rs.10,000/-** towards food, diet, nourishment and attendant charges as against Rs.7,000/-



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awarded by the Tribunal. The award of compensation on the head of medical expenses of **Rs.39,993/-** and **Rs.50,000/-** towards pain and suffering are unaltered. A sum of **Rs.26,250/-** is awarded towards loss of income during laid-up period, which the Tribunal is not awarded. Thus, the appellant is entitled to modified compensation on the following heads:

Pain and suffering	Rs. 50,000/-
Medical expenses	Rs. 39,993/-
Loss of amenities	Rs. 30,000/-
Loss of income during laid-up period	Rs. 26,250/-
Food, diet, nourishment and attendant	Rs. 10,000/-
Loss of future income due to disability	Rs.2,17,350/-

Total	Rs.3,73,593/-

31. Thus, the appellant in MFA No.102795/2022 (MVC No.1341/2017) is entitled to total compensation of **Rs.3,73,593/-** as against Rs.1,81,513/- awarded by the Tribunal.

32. In MFA No.102796/2022 (MVC No.1343/2017), the appellant was aged about 69 years and was doing agricultural activities. This Court assesses the notional income of the appellant at **Rs.8,750/-** per month placing reliance on the notional income chart prepared by the KSLSA. Admittedly, the appellant has suffered injury to low back, spine, LS wedge



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compression fracture, tenderness present over the spine, movement of spine, painful and restricted and other injuries to all over the body. This Court is of the considered view that the appellant has sustained disability to the extent of 10%. Thus, the appellant is entitled to compensation on the head of loss of future income due to disability as under:

$$\text{Rs.}8,750 \times 12 \times 5 \times 10\% = \textbf{Rs.52,500/-}$$

33. Taking note of the injuries suffered by the appellant and duration of treatment taken by him, the appellant is entitled to additional sum of **Rs.14,000/-** under the head of loss of amenities and enjoyment in life. The appellant is entitled to additional sum of **Rs.3,000/-** under the head of diet food nourishment, attendant and conveyance charges. The appellant is also entitled to **Rs.26,250/-** under the head of loss of income during laid-up period as against Rs.16,000/- awarded by the Tribunal. The award of compensation by the Tribunal under other heads are just and proper, requires no enhancement.

34. Thus, the claimant would be entitled to modified compensation on the following heads:



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Particulars	Amount (in Rs.)
Pain and suffering	40,000/-
Medical expenses	25,703/-
Diet food nourishment, attendant and conveyance charges	10,000/-
Loss of future earning capacity due to disability	52,500/-
Loss of income during laid-up period	26,250/-
Loss of amenities and enjoyment in life	30,000/-
Total	1,84,453/-

35. Thus, the appellant in MFA No.102796/2022 (MVC No.1343/2017), is entitled to total compensation of **Rs.1,84,453/-** as against Rs.1,52,703/- awarded by the Tribunal.

36. In MFA No.103062/2022 (MVC No.1791/2018), the appellant was aged about 52 years and doing agricultural activities. This Court assesses the notional income of the appellant at **Rs.8,750/-** per month placing reliance on the notional income chart prepared by the KSLSA. Admittedly, the appellant has sustained grievous injuries. This Court is of the considered view that the appellant has sustained disability to the extent of 8%. Thus, the appellant is entitled to compensation on the head of loss of future income due to disability as under:

$$\text{Rs.8,750} \times 12 \times 11 \times 8\% = \text{Rs.92,400/-}$$



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MFA No.102796/2022, MFA No.102817/2022,
MFA No.103062/2022, MFA No.103064/2022,
MFA No.103072/2022, MFA No.103073/2022,
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37. Taking note of the injuries suffered by the appellant and duration of treatment taken by him, the appellant is entitled to an additional sum of **Rs.10,000/-** under the head of pain and sufferings and the appellant is entitled to an additional sum of **Rs.20,000/-** under the head of loss of amenities and enjoyment of life. The appellant is entitled to an additional sum of **Rs.8,000/-** under the head of diet food nourishment, attendant and conveyance charges. The appellant is also entitled to **Rs.26,250/-** under the head of loss of income during laid-up. The award of compensation by the Tribunal under other heads are just and proper, requires no enhancement.

38. Thus, the claimant would be entitled to modified compensation on the following heads:

Particulars	Amount (in Rs.)
Pain and suffering	40,000/-
Medical expenses	10,400/-
Diet food nourishment, attendant and conveyance charges	10,000/-
Loss of future earning capacity due to disability	92,400/-
Loss of income during laid-up period	26,250/-
Loss of amenities and enjoyment in life	30,000/-
Total	2,09,050/-



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39. Thus, the appellant in MFA No.103062/2022 (MVC No.1791/2018), is entitled to total compensation of **Rs.2,09,050/-** as against Rs.1,05,200/- awarded by the Tribunal.

40. In MFA No.103064/2022 (MVC No.1794/2018), the appellant was aged about 35 years and doing agricultural activities. This Court assesses the notional income of the appellant at **Rs.8,750/-** per month placing reliance on the notional income chart prepared by the KSLSA. Admittedly, the appellant has sustained fracture of lower end of radius right. This Court is of the considered view that the appellant has sustained disability to the extent of 8%. Thus, the appellant is entitled to compensation on the head of loss of future income due to disability as under:

$$\text{Rs.8,750} \times 12 \times 16 \times 8\% = \text{Rs.1,34,400/-}$$

41. Taking note of the injuries suffered by the appellant and duration of treatment taken by him, the appellant is entitled to additional sum of **Rs.20,000/-** under the head of pain and sufferings and the appellant is entitled to additional



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sum of **Rs.20,000/-** under the head of loss of amenities and enjoyment of life. The appellant is entitled to additional sum of **Rs.8,000/-** under the head of diet food nourishment, attendant and conveyance charges. The appellant is also entitled to **Rs.26,250/-** under the head of loss of income during laid-up. The award of compensation by the Tribunal under other heads are just and proper, requires no enhancement. Thus, the claimant would be entitled to modified compensation on the following heads:

Particulars	Amount (in Rs.)
Pain and suffering	40,000/-
Medical expenses	13,100/-
Diet food nourishment, attendant and conveyance charges	10,000/-
Loss of future earning capacity due to disability	1,34,400/-
Loss of income during laid-up period	26,250/-
Loss of amenities and enjoyment in life	30,000/-
Total	2,53,750/-

42. Thus, the appellant in MFA No.103064/2022 (MVC No. 1794/2018), is entitled to total compensation of **Rs.2,53,750/-** as against Rs.91,180/- awarded by the Tribunal.

43. In MFA No.103072/2022 (MVC No.1809/2018), the appellant was aged about 72 years and was doing private job



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and agricultural activities. This Court assesses the notional income of the appellant at **Rs.8,750/-** per month placing reliance on the notional income chart prepared by the KSLSA. Admittedly, the appellant has sustained grievous injuries i.e., fracture of 3rd to 6th Rib. This Court is of the considered view that the appellant has sustained disability to the extent of 10%. Thus, the appellant is entitled to compensation on the head of loss of future income due to disability as under:

$$\text{Rs.8,750} \times 12 \times 5 \times 10\% = \textbf{Rs.52,500/-}$$

44. Taking note of the injuries suffered by the appellant and duration of treatment taken by him, the appellant is entitled to **Rs.10,000/-** under the head of Diet food nourishment, attendant and conveyance charges and the appellant is entitled to additional sum of **Rs.10,000/-** under the head of loss of amenities and enjoyment of life. The appellant is also entitled to **Rs.26,250/-** under the head of loss of income during laid-up. The award of compensation by the Tribunal under other heads are just and proper, requires no enhancement. Thus, the claimant would be entitled to modified compensation on the following heads:



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MFA No.102796/2022, MFA No.102817/2022,
MFA No.103062/2022, MFA No.103064/2022,
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Particulars	Amount (in Rs.)
Pain and suffering	30,000/-
Medical expenses	6,700/-
Diet food nourishment, attendant and conveyance charges	10,000/-
Loss of future earning capacity due to disability	52,500/-
Loss of income during laid-up period	26,250/-
Loss of amenities and enjoyment in life	30,000/-
Total	1,55,450/-

45. Thus, the appellant in MFA No. 103072/2022 (MVC No.1809/2018) is entitled to total compensation of **Rs.1,55,450/-** as against Rs.1,04,700/- awarded by the Tribunal.

46. In MFA No.103073/2022 (MVC No.1795/2018), the appellant was aged about 40 years and was doing tailoring and agricultural activities. This Court assesses the notional income of the appellant at **Rs.8,750/-** per month placing reliance on the notional income chart prepared by the KSLSA. Admittedly, the appellant has sustained grievous injuries i.e., fracture of 7th Rib. This Court is of the considered view that the appellant has sustained disability to the extent of 10%. Thus, the appellant is entitled to compensation on the head of loss of future income due to disability as under:

$$\text{Rs.8,750} \times 12 \times 15 \times 10\% = \text{Rs.1,57,500/-}$$



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MFA No.102796/2022, MFA No.102817/2022,
MFA No.103062/2022, MFA No.103064/2022,
MFA No.103072/2022, MFA No.103073/2022,
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47. Taking note of the injuries suffered by the appellant and duration of treatment taken by him, the appellant is entitled to an additional sum of **Rs.10,000/-** under the head of pain and sufferings and the appellant is entitled to an additional sum of **Rs.20,000/-** under the head of loss of amenities and enjoyment of life. The appellant is entitled to **Rs.10,000/-** under the head of diet food nourishment, attendant and conveyance charges. The appellant is also entitled to **Rs.26,250/-** under the head of loss of income during laid-up. The award of compensation by the Tribunal under other heads are just and proper, requires no enhancement.

48. Thus, the claimant would be entitled to modified compensation on the following heads:

Particulars	Amount (in Rs.)
Pain and suffering	30,000/-
Medical expenses	6,900/-
Diet food nourishment, attendant and conveyance charges	10,000/-
Loss of future earning capacity due to disability	1,57,500/-
Loss of income during laid-up period	26,250/-
Loss of amenities and enjoyment in life	30,000/-
Total	2,60,650/-

49. Thus, the appellant in MFA No. 103073/2022 (MVC No.1795/2018), is entitled to total compensation of



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Rs.2,60,650/- as against Rs.1,26,900/- awarded by the Tribunal.

50. In MFA No.100514/2023 (MVC No.1792/2018), the appellant was aged about 50 years and was doing tailoring and agricultural activities. This Court assesses the notional income of the appellant at **Rs.8,750/-** per month placing reliance on the notional income chart prepared by the KSLSA. Admittedly, the appellant has sustained grievous injuries i.e., fracture of Triquetrum of right wrist and fracture of base of 1st MC. This Court is of the considered view that the appellant has sustained disability to the extent of 8%. Thus, the appellant is entitled to compensation on the head of loss of future income due to disability as under:

$$\text{Rs.8,750} \times 12 \times 13 \times 8\% = \text{Rs.1,09,200/-}$$

51. Taking note of the injuries suffered by the appellant and duration of treatment taken by him, the appellant is entitled to an additional sum of **Rs.8,000/-** under the head of Diet food nourishment, attendant and conveyance charges and the appellant is entitled to an additional sum of **Rs.20,000/-**



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MFA No.103062/2022, MFA No.103064/2022,
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under the head of loss of amenities and enjoyment of life. The appellant is also entitled to Rs.**26,250/-** under the head of loss of income during laid-up. The award of compensation by the Tribunal under other heads are just and proper, requires no enhancement. Thus, the claimant would be entitled to modified compensation on the following heads:

Particulars	Amount (in Rs.)
Pain and suffering	30,000/-
Medical expenses	16,500/-
Diet food nourishment, attendant and conveyance charges	10,000/-
Loss of future earning capacity due to disability	1,09,200/-
Loss of income during laid-up period	26,250/-
Loss of amenities and enjoyment in life	30,000/-
Total	2,21,950/-

52. Thus, the appellant in MFA No. 100514/2023(MVC No.1792/2018), is entitled to total compensation of **Rs.2,21,950/-** as against Rs.95,940/- awarded by the Tribunal.

53. In MFA No.100517/2023 (MVC No.1796/2018), the appellant was aged about 42 years and was working as electrician wireman and agricultural activities. This Court assesses the notional income of the appellant at **Rs.8,750/-**



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per month placing reliance on the notional income chart prepared by the KSLSA. Admittedly, the appellant has sustained grievous injuries i.e., fracture of end of radius right and fracture of Ulnar styloid and Hematoma of brain. This Court is of the considered view that the appellant has sustained disability to the extent of 8%. Thus, the appellant is entitled to compensation on the head of loss of future income due to disability as under:

$$\text{Rs.}8,750 \times 12 \times 14 \times 8\% = \textbf{Rs.1,17,600/-}$$

54. Taking note of the injuries suffered by the appellant and duration of treatment taken by him, the appellant is an entitled to an additional sum of **Rs.8,000/-** under the head of Diet food nourishment, attendant and conveyance charges and the appellant is entitled to an additional sum of **Rs.12,000/-** under the head of loss of amenities and enjoyment of life. The appellant is also entitled to **Rs.26,250/-** under the head of loss of income during laid-up. The award of compensation by the Tribunal under other heads are just and proper, requires no enhancement.



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MFA No.102796/2022, MFA No.102817/2022,
MFA No.103062/2022, MFA No.103064/2022,
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55. Thus, the claimant would be entitled to modified compensation on the following heads:

Particulars	Amount (in Rs.)
Pain and suffering	40,000/-
Medical expenses	16,900/-
Diet food nourishment, attendant & conveyance charges	10,000/-
Loss of future earning capacity due to disability	1,17,600/-
Loss of income during laid-up period	26,250/-
Loss of amenities and enjoyment in life	30,000/-
Total	2,40,750/-

56. Thus, the appellant in MFA No. 100517/2023 (MVC No.1796/2018), is entitled to total compensation of **Rs.2,40,750/-** as against Rs.2,15,860/- awarded by the Tribunal.

57. This Court reassesses the compensation in the aforesaid claim petitions, after re-appreciation of the entire evidence available on record and after considering the rival contentions urged by the parties. In view of the same, the appeals filed by the claimants are allowed in part by directing the insurer of the offending vehicle to pay the compensation to the claimants along with interest and recover the same from the owner of the offending vehicle.



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MFA No.102796/2022, MFA No.102817/2022,
MFA No.103062/2022, MFA No.103064/2022,
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58. For the aforementioned reasons, this Court proceeds to pass the following:

ORDER

- a) All the appeals filed by the claimants/injured are ***allowed in part.***
- b) The impugned judgment and award of the Tribunal is modified holding that the appellant in MFA No.103074/2022 is entitled to total compensation of **Rs.2,09,850/-** as against Rs.1,01,800/- awarded by the Tribunal; the appellant in MFA No.102113/2022 is entitled to total compensation of **Rs.2,42,450/-** as against Rs.1,32,550/- awarded by the Tribunal; the appellant in MFA No.102114/2022 is entitled to total compensation of **Rs.3,50,413/-** as against Rs.3,12,103/- awarded by the Tribunal; the appellant in MFA No.102817/2022 is entitled to total compensation of **Rs.2,55,023/-** as against Rs.1,16,073/- awarded by the Tribunal; the appellant in MFA No.102680/2022 is entitled to total compensation of **Rs.2,48,750/-** as



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MFA No.103062/2022, MFA No.103064/2022,
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against Rs.2,07,200/- awarded by the Tribunal; the appellant in MFA No.102794/2022 is entitled to total compensation of **Rs.55,817/-** as against Rs.35,817/- awarded by the Tribunal; the appellant in MFA No.102795/2022 is entitled to total compensation of **Rs.3,73,593/-** as against Rs.1,81,513/- awarded by the Tribunal; the appellant in MFA No.102796/2022 is entitled to total compensation of **Rs.1,84,453/-** as against Rs.1,52,703/- awarded by the Tribunal; the appellant in MFA No.103062/2022 is entitled to total compensation of **Rs.2,09,050/-** as against Rs.1,05,200/- awarded by the Tribunal; the appellant in MFA No.103064/2022 is entitled to total compensation of **Rs.2,53,750/-** as against Rs.91,180/- awarded by the Tribunal; the appellant in MFA No.103072/2022 is entitled to total compensation of **Rs.1,55,450/-** as against Rs.1,04,700/- awarded by the Tribunal; the appellant in MFA No.103073/2022 is entitled to total



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compensation of **Rs.2,60,650/-** as against Rs.1,26,900/- awarded by the Tribunal; the appellant in MFA No.100514/2023 is entitled to total compensation of **Rs.2,21,950/-** as against Rs.95,450/- awarded by the Tribunal; the appellant in MFA No.100517/2023 is entitled to total compensation of **Rs.2,40,750/-** as against Rs.2,15,860/- awarded by the Tribunal.

- c) The enhanced compensation amount, in all the above appeals, shall carry interest at the rate of 6% per annum from the date of petitions till date of realization.
- d) The respondent/Insurance Company, in all the above appeals, shall deposit the entire compensation amount with accrued interest before the Tribunal within a period of six weeks from the date of receipt of certified copy of the judgment.
- e) It is made clear that the respondent/Insurer is at liberty to recover the compensation amount from the owner of the offending vehicle in an appropriate proceeding.



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MFA No.102796/2022, MFA No.102817/2022,
MFA No.103062/2022, MFA No.103064/2022,
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- f) The enhanced compensation amounts shall be released in favour of the respective appellants/injured on proper identification.
- g) Needless to observe that the registry, while drawing the award, shall take note that the appellants/injured, wherever it is applicable, shall not be entitled to interest for the delayed period in filing the appeals.
- h) Registry to transmit the TCR if any to the Tribunal forthwith.
- i) Draw modified awards accordingly.

**Sd/-
JUDGE**

JTR/PMP
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