



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28<sup>TH</sup> DAY OF JUNE, 2024

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

MISCELLANEOUS FIRST APPEAL NO. 3022 OF 2019 (MV-I)

**BETWEEN:**

SRI BALAKRISHNA K  
S/O KANNIYAPPAN,  
AGED ABOUT 57 YEARS,  
R/AT NO.1791/26  
6<sup>TH</sup> CROSS, 4<sup>TH</sup> MAIN,  
PRAKASHNAGAR,  
BENGALURU-560 021.

...APPELLANT

(BY SRI. GURUDEVA PRASAD K.T., ADVOCATE)

**AND:**

1. THE MANAGER  
SHRIRAM GENERAL INSURANCE COMPANY LTD,  
TP. CLAIMS HUB, NO.4/5,  
3<sup>RD</sup> FLOOR, S.V. ARCADE,  
BILEKAHALLI MAIN ROAD,  
OFF BANNERGHATTA ROAD,  
IIMB POST, BENGALURU-560 076.

2. MR. KHADER PASHA  
S/O AHAMED BABA  
R/AT NO.37, 'M' CROSS,  
NEW GURAPPANAPALYA,  
BANNERGHATTA ROAD,  
BENGALURU - 560 029.

...RESPONDENTS

(BY SRI. B. PRADEEP, ADVOCATE FOR R-1;  
V/O DATED 15.12.2023 NOTICE TO R2 IS HELD SUFFICIENT)



THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 03.08.2017 PASSED IN MVC NO.4990/2017 ON THE FILE OF THE XXII ADDITIONAL SMALL CAUSES JUDGE AND XX A.C.M.M. AND MEMBER MACT, BENGALURU (SCCH-24), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

### **JUDGMENT**

This appeal under Section 173(1) of the Motor Vehicles Act has been filed by the claimant, challenging the judgment and award dated 3.8.2017, passed by the XXII Additional Small Causes Judge and XX Additional Chief Metropolitan Magistrate & MACT, Bengaluru (SCCH-24) in MVC No.4990/2017.

2. The appellant/claimant sustained injuries in a road traffic accident on 13.7.2017 and subsequently filed a claim petition under Section 166 of the Indian Motor Vehicles Act, 1989, seeking just and proper compensation. The Tribunal awarded a total compensation of Rs.9,72,200/- with interest at the rate of 8% per annum. Being not satisfied with the compensation amount awarded by the Tribunal, the claimant is appealing for an enhancement of the compensation amount.

3. Heard the learned counsel for the appellant and the respondent, the Insurance Company.



4. The claimant having sustained accidental injuries on 13.7.2017 is not disputed, and he was aged about 55 years at the time of the accident. It is alleged that, the claimant was working as Lathe operator and proprietor of M/s Sharmila Engineering works, and was earning Rs.15 Lakh per annum, and due to the accident he suffered permanent disablement and is unable to lead normal life as earlier and has closed the workshop and suffered huge loss.

5. The claimant suffered the following injuries:

"Deglolving injury over right arm, multiple abrasion over right upper limb, tenderness over right wrist, tenderness over left side of chest, tenderness and swelling over right forearm."

6. The doctor, who was examined as P.W.2, assessed the permanent physical disability to the limb at 65.62% and 21.87% to the whole body.

7. Considering the nature of the injury sustained by the claimant, the sum of Rs.1,00,000/- awarded by the Tribunal towards pain and suffering is deemed insufficient and is therefore enhanced by an additional Rs.50,000/-, bringing the total to Rs.1,50,000/- under this head.

8. The claimant was treated as inpatient for a period 53 days in various hospitals, Bengaluru. Therefore, considering the duration of treatment, a sum of Rs.75,000/- is awarded towards incidental expenses such as conveyance, nourishment and attendant charges as against Rs. 50,000/- awarded by the Tribunal.



9. Given the nature of injuries, a sum of Rs.55,000/- is awarded towards 'future medical expenses' as against Rs. 30,000/- awarded by the Tribunal

10. Therefore, the appellant is entitled to enhanced compensation under the following heads:

	Awarded by Tribunal Rs.	Awarded by this Court Rs.
Pain and suffering	1,00,000/-	1,50,000/-
Food & Nourishment, Conveyance & attendant charges	50,000/-	75,000/-
Medical Expenses	4,42,175/-	4,42,175/-
Loss of income during laid up period	1,00,000/-	100,000/-
Loss of amenities of life and disability	2,50,000/-	2,50,000/-
Future medical expenses	30,000/-	55,000/-
Total	<b>9,72,175/-</b>	<b>10,72,175/-</b>

11. In summary, the appellant/claimant is entitled to a total compensation of Rs.10,72,175/- as opposed to Rs.9,72,175/- awarded by the Tribunal. The enhanced compensation amounts to Rs.1,00,000/-. To this extent, the award passed by the Tribunal is modified. The enhanced compensation of Rs.1,00,000/- shall not carry interest.

12. The respondent, the Insurance Company, is directed to deposit the enhanced amount within a period of three months from the date of receipt of the certified copy of this order. The entire



enhanced compensation amount is to be released in favor of the appellant/claimant.

The appeal is disposed of.

**Sd/-**  
**JUDGE**

HR