

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU****DATED THIS THE 25<sup>TH</sup> DAY OF MARCH, 2025****BEFORE****THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI****MISCELLANEOUS FIRST APPEAL NO. 156 OF 2015 (MV-I)****BETWEEN:**

YASHAVANTHA  
S/O KRISHNAPPA POOJARY  
AGED ABOUT 32 YEARS  
R/AT KODI HOUSE  
MANGALANTHI POST  
MANJANADY VILLAGE  
MANGALORE TALUK - 575 001.

...APPELLANT

(BY SRI.STEAPHAN MATHEW, ADVOCATE FOR  
SRI.KARUNAKAR P., ADVOCATE)

**AND:**

1. MR.S.JAYACHANDRA  
S/O LATE AYYAPPA  
AGED ABOUT 45 YEARS  
M/S SUSMITHA TRAVELS  
CIFA APARTMENT, FLAT NO. C-  
1<sup>ST</sup> FLOOR, MANGALA DEVI  
MANGALORE TALUK - 575 001.
2. THE BRANCH MANAGER  
ROYAL SUNDARAM ALLIANCE  
INSURANCE COMPANY LTD.,  
SUNDARAMA TOWERS  
45 AND 46, WHITES ROAD  
CHENNAI - 600 001.
3. MR.LOHITH  
S/O KESHAVA  
AGED ABOUT 25 YEARS  
ELECTRICIAN  
KANNIRTHOTA  
BABITHA COMPOUND





KOLYA, KOTEKAR VILLAGE  
MANGALORE-575 001.

...RESPONDENTS

(BY SRI. RAVI S. SAMPRATHI, ADVOCATE FOR R2  
R1 AND R3 – SERVICE OF NOTICE IS D/W V.C.O. DT: 23.10.2017)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:28.12.2013 PASSED IN MVC NO.1591/2012 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE, MACT, MANGALORE, D.K., PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

### **ORAL JUDGMENT**

Aggrieved by the order passed in M.V.C.No.1591/2012 dated 28.12.2013 by the II Additional Senior Civil Judge & Member, MACT, Mangalore D.K., the claimant is before this Court. The claim petition was filed seeking compensation of an amount of Rs.3,00,000/- for the injuries sustained by the claimant in the road traffic accident.

2. It is the case of the claimant that he was walking on the left side of the road on 17.08.2012 at 9:20 a.m. near Saubhaghya hall, Kolya, Mangalore and at that time, a bus came in a rash and negligent manner and dashed against the motor cycle and the said motor cycle came and hit the



claimant. Immediately, he was shifted to the hospital and was admitted as inpatient from 17.08.2012 to 20.08.2012. The claimant had sustained various injuries all over his body and had sustained fracture of left leg and had sustained disability because of the injuries sustained in the accident. He has spent more than an amount of Rs.50,000/- towards medical expenses and he has produced the medical bills which are marked as Ex.P.16.

3. The Tribunal had fixed the liability on the Insurance Company and held that the accident had happened because of the rash and negligent driving of the driver of the offending vehicle. When it comes to the compensation, the claimant had not examined the doctor in support of his case and the wound certificate and the medical records show that he was treated conservatively. The Tribunal had considered the medical bills and had held that the amount paid to the doctors as the professional charge in Bill Nos.4, 5 and 7 cannot be taken into consideration. It has to be included in the final bill of the hospital for the treatment given by the doctors towards their professional charges. Hence, a sum of Rs.16,000/- was deducted and a sum of Rs.21,137/- can be taken as amount



spent towards medical expenses. Towards pain and suffering, an amount of Rs.25,000/- was granted. The Tribunal had granted an amount of Rs.5,000/- towards incidental charges like payment to attendant and nourishing food, an amount of Rs.5,000/- towards loss of enjoyment of life an amenities and another amount of Rs.5,000/- towards loss of income during laid up period. Altogether, the Tribunal had granted compensation of an amount of Rs.61,137/-. Aggrieved thereby, the claimant is before this Court.

4. Learned counsel appearing for the appellant/claimant submits that the injuries sustained by the claimant will have an impact on his future earnings. This aspect was not considered by the Tribunal. It is submitted that when he had sustained disability, the Tribunal had not granted any amount and even under the other heads also, the amount that is granted by the Tribunal is not just and reasonable.

5. Learned counsel appearing for respondent No.2/ Insurance Company submits that the claimant was treated conservatively and he had not examined any doctor to show the disability. In view of the same, the Tribunal had rightly



granted the compensation and there are no grounds to interfere with the order passed by the Tribunal.

6. Having heard the learned counsels on either side, perused the entire material on record. Coming to the aspect of disability, the claimant had not examined any doctor in support of the same. Considering the fact that he had been treated conservatively, the Tribunal had rightly not considered the case of the claimant. The Tribunal had observed that he was hospitalised for 4 days and though there was no evidence, considering the hospitalization and the medical bills, this Court is of the view that the claimant is entitled for an amount of **Rs.30,000/-** as **global compensation** in addition to what is granted by the Tribunal.

7. Accordingly, the appeal of the claimant is partly allowed, by enhancing the compensation from an amount of Rs.61,137/- to **Rs.91,137/-**.

- i) The enhanced amount shall carry interest at 6% per annum from the date of petition till the date of realization.
- ii) The respondent No.2 - Insurance Company shall deposit the amount within a period of eight weeks



from the date of receipt of copy of the judgment. On such deposit, the claimant is entitled to withdraw the entire amount without furnishing any security.

- iii) Registry is directed to return the Trial Court Records to the Tribunal, along with certified copy of the order passed by this Court forthwith without any delay.
- iv) On 22.06.2022, the delay of 252 days is condoned by this Court, on the condition that the claimant will not be entitled for the interest, in case of enhancement. Hence, Insurance Company is not liable to pay the interest for the delay period.
- v) No costs.
- vi) Pending miscellaneous petitions, if any, shall stand closed.

**SD/-**  
**(LALITHA KANNEGANTI)**  
**JUDGE**

MEG  
List No.: 1 Sl No.: 1