



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

MISCELLANEOUS FIRST APPEAL NO.2237 OF 2023(MV-I)

BETWEEN:

UNITED INDIA INSURANCE CO. LTD
RAM BHAVAN COMPLEX,
KODIALBAIL, MANGALORE-575003
REPRESENTED BY,
THE REGIONAL MANAGER,
UNITED INDIA INSURANCE CO LTD,
REGIONAL OFFICE,
6TH FLOOR, KRISHI BHAVAN,
HUDSON CIRCLE, NRUPATUNGA ROAD
BENGALURU-560001.

...APPELLANT

(BY SMT. MANJULA N. TEJASWI,ADVOCATE (VC))

AND:

Digitally signed by
AASEEFA
PARVEEN
Location: HIGH
COURT OF
KARNATAKA

1. MR. BALAKRISHNA @ BALAKRISHNA POOJARY
S/O LATE AITHAPPA POOJARY,
AGED ABOUT 59 YEARS,
R/AT D NO.2-39, ASHWATHADY HOUSE,
CHARMADY BELTHANGADY TALUK,
PRESENTLY R/AT: BALLUR HOUSE,
KANNUR POST, MANGALURE-575 003.

2. MR. A. JANARDHAN GOWDA,
S/O ANNI GOWDA,
AGED ABOUT 52 YEARS,
R/AT SHRIHARI NILAYA, HARANEPADE,
CHARMADY POST, BELTHANGADY TALUK-574214

...RESPONDENTS

(BY SRI. B.R. GURUPRASAD, ADVOCATE FOR R1;
R2- SERVED, UNREPRESENTED)



THIS MFA FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 02.12.2022 PASSED IN MVC NO.916/2020 ON THE FILE OF THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE AND MACT-IV, DAKSHINA KANNADA, MANGALURU, AWARDING COMPENSATION OF RS.6,70,000/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL THE DATE OF DEPOSIT.

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

CORAM: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

Heard Smt.Manjula N. Tejaswi, learned counsel for the appellant who appears through video conference. Also heard Sri.Guruprasad B.R., learned counsel for respondent No.1, who appears physically before this Court.

2. Projecting that the compensation that is awarded by the Motor Accident Claims Tribunal-IV, Dakshina Kannada, Mangaluru, through orders in MVC No.916/2020 dated 02.12.2022 is exorbitant, the present appeal is filed by the insurance company.

3. The Tribunal through the impugned order awarded a sum of Rs.6,70,000/- as compensation divided under the following heads:



Sl. No	Heads of compensation	Amount in Rs.
1	Pain and suffering	1,00,000-00
2	Loss of amenities, discomfort in future life	2,00,000-00
3	Loss during laid up period (30,000 x 6)	1,80,000-00
4	Attendant, food & nourishment and conveyance charges	1,00,000-00
5	Medical Bills	90,000-00
Total		6,70,000-00

4. Making her submission, Smt.Manjula N. Tejaswi contends that the respondent No.1/claimant sustained only one grievous injury. He did not produce any evidence with regard to his occupation and earnings by the date of accident. Also the aspect of disability either permanent or temporary is not established by the respondent No.1/claimant. Yet the Tribunal awarded a huge sum of Rs.6,70,000/- as compensation. Learned counsel states that in the normal course, the Tribunals are awarding not more than Rs.40,000/- as compensation under the head 'pain and suffering' for one grievous injury and the Tribunal in the impugned order awarded Rs.1,00,000/- under the head pain and suffering. Learned counsel also states that in the absence of any proof with regard to the occupation and earnings, the Tribunal ought to have awarded nominal sum



towards loss of earning during laid up period. The Tribunal awarded a sum of Rs.1,80,000/-. Learned counsel further submits that huge sum of Rs.2,00,000/- was awarded towards loss of amenities and discomfort and likewise Rs.1,00,000/- is awarded towards attendant, food, nourishment and conveyance charges without any basis. Learned counsel thereby seeks to pass necessary orders.

5. On the other hand, Sri.Guruprasad B.R., learned counsel for respondent No.1/claimant contends that as a tailor respondent No.1 was earning Rs.30,000/- per month. But due to the injuries sustained he became permanently and completely disabled. Learned counsel finally submits that this Court may award justifiable sum as compensation with certain reduction, however marginally.

6. Respondent No.1/claimant succeeded in establishing that he sustained fracture of both bones of right leg and underwent a surgery. He also succeeded in establishing that he took treatment as inpatient for a period of ten days. But no evidence whatsoever is on record with regard to his actual occupation and earnings by the date of accident. As rightly



contended by Smt.Manjula N.Tejaswi, learned counsel for the appellant, the Tribunal awarded exorbitant sum as compensation under all heads except medical expenses. There is no basis for the Tribunal to award huge sum of Rs.2,00,000/- under the head loss of amenities in life and Rs.1,00,000/- towards attendant, food, nourishment and conveyance charges where no evidence in that regard was produced by the appellant. However, having considered the fact that the appellant was a tailor by profession, this Court is of the view that he would be facing certain amount of difficulty in continuing his profession in the light of the fracture sustained to both bones of right leg.

7. Having considered the nature of injuries sustained, the period of treatment as inpatient, the surgery underwent and the occupation, this Court is of the view that the justifiable sum which the respondent No.1/claimant would be entitled to as compensation is Rs.3,70,000/-. As rightly contended, without any basis the Tribunal has awarded exorbitant sum of Rs.6,70,000/- as compensation. Therefore, this Court considers desirable to allow the appeal accordingly.



8. Thus, the appeal is disposed of with the following:

ORDER

i) The appeal is allowed in part.

ii) The compensation that is granted by the Motor Accident Claims Tribunal-IV, Dakshina Kannada, Mangaluru, through orders in MVC No.916/2020 dated 02.12.2022 is reduced from Rs.6,70,000/- to Rs.3,70,000/-.

iii) The award of the Tribunal on all other aspects holds good.

iv) The amount, if any, in deposit be transmitted to the concerned Tribunal immediately.

v) The amount, in excess, if any deposited by the appellant, be refunded to the appellant after due verification.

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

AP
CT:TSM
List No.: 1 Sl No.: 37