



IN THE HIGH COURT OF KARNATAKA,AT DHARWAD

DATED THIS THE 21ST DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 101172 OF 2021 (MV-I)

BETWEEN:

ANNAPPA S/O. APPANNA DHANAGAR
AGE. 36 YEARS, OCC. DRIVER NOW NILL
R/O. NILAJI VILLAGE,
TQ. AND DIST. BELAGAVI-591217.

...APPELLANT

(BY SRI. PRASHANT MATHAPATI, ADVOCATE)

AND:

1. R. SHIVASANKAR S/O. RAMASAMY
AGE. MAJOR, OCC. BUSINES
R/O.NO.10 S.S.S. BUILDING,
A.V.ROAD, CHAMARAJPET,
BENGALURU, 21, NEAR
AYYAPPA TEMPLE, ATTIBELE,
ANEKAL, TQ AND DIST. BENGALURU-562106
(OWNER OF BORE WELL
TRUCK NO. KA-51/MD-8777)

2. THE DIVISIONAL MANAGER
NATIONAL INSURANCE CO. LTD.,
1732, RAMADEV GALLI,
BELAGAVI-590001. (INSURER OF BORE WELL
TRUCK NO. KA-51/MD-8777)

...RESPONDENTS

(BY SRI RAJESH B. RAJANAL, ADVOCATE FOR R2;
NOTICE SERVED TO R1 DISPENSED WITH;
SRI S.V. YAJI, ADVOCATE FOR R2 (THROUGH VC))



THIS MFA IS FILED U/S.173 (1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 26.03.2021 PASSED IN MVC NO.1146/2017 ON THE FILE OF THE II ADDITIONAL SESSIONS JUDGE AND MEMBER OF ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BELAGAVI AND ALLOW THIS APPEAL BY AWARDED COMPENSATION AS PRAYED, IN THE INTEREST OF JUSTICE.

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

ORAL JUDGMENT

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

This is the appeal filed under Section 173(1) of Motor Vehicles Act, 1988 not being satisfied with the quantum of compensation awarded under the judgment and award passed in MVC No.1146/2017 dated 26.03.2021 on the file of II Additional Sessions Judge and member of Additional MACT, Belagavi (for short, 'the Tribunal').

2. Parties would be referred with their ranks as they were before the tribunal for sake of convenience and clarity.

3. Claimant has filed claim petition under Section 166 of Motor Vehicles Act praying for compensation in



respect of the injuries sustained by him in the road traffic accident that had taken place on 20.05.2017 at about 20:40 hours on Sankeshwar-Halakarni road in front of Tahasildar Petrol Pump, Halakarni village involving the Bore-well truck bearing No.KA-51/MD-8777.

4. The case of claimant in nutshell is that due to the accident he sustained fracture of femur bone and admitted to Hattarki Hospital, Gadhingalaj for a period of 13 days from 20.05.2017 to 03.06.2017 and undergone an operation and spent about ₹.1,00,000/- towards medicine and other incidental expenses; he was aged about 32 years at the time of accident and was driver by profession and earning ₹.15,000/- per month; Now because of the accident, he cannot pursue his profession as driver and thus there is 100% functional disability to him; The doctor, who examined him has opined that there is 40% permanent disability to his right lower limb. Hence, prayed for granting compensation.



5. On receipt of notice of petition, respondent No.1 has not filed objections to the petition; whereas, respondent No.2-insurer has filed its objection statement wherein it has taken all the available defence to insurer-cum-owner and denied the accident in question and the injuries sustained by the claimant and also the amount spent by him towards treatment, etc. Hence, prayed for dismissal of the petition.

6. On behalf of claimant, claimant was examined as P.W.1 apart from examining the doctor as P.W.2 and marking Exs.P.1 to P.19 before the Tribunal. On behalf of respondents, no evidence was let in except marking insurance policy as Ex.R.1 with consent.

7. After recording evidence of both sides and hearing arguments of both sides, the Tribunal came to the conclusion that the claimant has sustained fracture of right femur bone and he has produced medical bills amounting to ₹.33,500/-, but he has not produced any other material



to show that he was inpatient in the hospital and the Tribunal has not believed the evidence of P.W.2-doctor and disability certificate-Ex.P.18 issued by the doctor and thus awarded only global compensation of ₹.50,000/- to the claimant.

8. Not being satisfied with the global compensation awarded by the Tribunal, appellant/claimant is before this Court.

9. Heard arguments of both sides.

10. Learned counsel for appellant Sri Prashant Mathapati would submit that the claimant has produced all relevant materials before the Tribunal to show that he sustained fracture of femur bone and he sustained permanent disability of 40% to the right lower limb. However, the Tribunal has not believed the evidence of P.W.2 and Ex.P.18 only on the ground that the claimant has not produced any document to show that he was in-patient in the hospital after the accident and hence not



awarded compensation under the heads- pain and agony, loss of income during laid up period, loss of amenities, etc. He would further submit that the claimant is entitled for compensation under the head-loss of future of earnings by considering the disability at least 13% to the whole body by relying upon Ex.P.18 and the evidence of P.W.2-docotr. Hence, prayed for modification of the judgment to that extent.

11. Learned counsel for respondent No.2-insurer would submit that the claimant has not produced any material to show that he was admitted to the hospital and thus the certificate issued by the doctor is not believed by the Tribunal and there is proper appreciation of evidence on this point. Hence, granting of global compensation to the claimant is just and fair and it needs no interference. Hence, prayed for dismissal of the appeal.

12. Having heard the arguments of both sides and verifying the appeal papers and also the original records of



Tribunal, the only point that would arise for consideration is:

"Whether the claimant is entitled for enhanced compensation?"

13. The finding of this Court on the above point is in **'affirmative'** for the following reasons:

14. The date, place and time of accident and the injuries sustained by claimant in the said accident are not seriously disputed. Ex.P.5-the injury certificate reveals that there was fracture of right femur bone to the claimant. According to this certificate, this claimant was admitted to Hattarki Hospital and Trauma Center on 21.05.2017 at 10.00 p.m. This document does not reveal that whether he was inpatient in the hospital and if so for how many days he was in the hospital. It does not reveal the I.P. number of admission of the patient. The other documents produced by the claimant also do not reveal the admission of the patient to the hospital. On the other hand, he has produced



O.P.D. slips as per Exs.P.7 to P.11 of Hattarki Hospital and Trauma Center said to be belonged to the claimant. According to these documents, the age of the claimant is 65 years; whereas claimant contends that his age is 35 years as on the date of accident. Hence, it appears that these documents are not of claimant.

15. As far as Exs.P.12 and P.13 are concerned, they are issued by one Sri Sai Hospital, wherein the age of claimant is mentioned as 35 years and he has taken treatment there for 3 months' old fracture of femur. Even in Ex.P.14-hospital bill, it is not mentioned that claimant has taken treatment as inpatient. If this bill was issued to inpatient, then I.P. number will be mentioned, but it is not forthcoming in Ex.P.14.

16. Ex.P.17 is the certificate issued by Shreyas Diagnostic Centre stating that there is mal-united fracture middle 1/3rd shaft of the right femur to the claimant. Ex.P.18 is the disability certificate issued by a private



doctor. He is not the treated doctor. Even in this certificate, it is stated that as per the say of the patient, he was inpatient in the hospital for 13 days. This is also not clarified.

17. Considering some of these aspects, the Tribunal has not believed the evidence of P.W.2 that the claimant has suffered 40% disability to his right lower limb. The said finding is based on proper appreciation of evidence, which needs no interference.

18. However, there is no dispute that the claimant has sustained fracture of right femur which is a major bone of right leg. Hence, he is entitled for compensation under other heads i.e., loss of amenities, loss of income during laid up period, pain and suffering and medical expenses.

19. The Tribunal has noticed that there are medical bills amount to ₹.33,500/- produced by the claimant. However, apart from this bill, the claimant has also produced the medical bill of Sri Sai Fracture and Accident



Hospital amounting to ₹.50,650/-. Hence, the claimant is entitled for the said amount along with ₹.33.500/- i.e., ₹.84.150/- under the head-medical expenses.

20. Considering the nature of injuries sustained by the claimant, the claimant is entitled for ₹.30,000/- towards pain and suffering and ₹.20,000/- towards loss of amenities. The claimant had sustained fracture of femur bone and he ought to have taken rest for the injuries sustained by him. Hence, the claimant is entitled for ₹10,000/- towards loss of income during laid up period.

21. Thus, in all, the claimant is entitled for ₹.1,44,150/- as against ₹.50,000/- awarded by the Tribunal.

22. Hence, I pass the following:

ORDER

- a) Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is partly allowed.



- b) The judgment and award passed MVC No.1146/2017 dated 26.03.2021 on the file of II Additional Sessions Judge and Additional MACT, Belagavi is modified holding that the claimant is entitled for ₹.1,44,150/- as against ₹.50,000/- awarded by the Tribunal.
- c) The enhanced compensation shall carry interest at 6% per annum from the date of petition till realisation.
- d) The respondent-insurer shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of 8 weeks from the date of receipt of certified copy of this judgment.
- e) The amount awarded to the claimant is meager. Hence, release the entire amount of compensation to the claimant on proper identification.
- f) Draw modified award accordingly.

Sd/-
(GEETHA K.B.)
JUDGE