



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 19TH DAY OF NOVEMBER, 2025
PRESENT
THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.
MISCELLANEOUS FIRST APPEAL NO. 100049 OF 2022
(MV-I)

BETWEEN:

SHRI RAMAPPA S/O. YAMANAPPA WADDAR
AGE. 54 YEARS, OCC. PEON
R/O. ITAGI, TQ. RON, DIST. GADAG
NOW AT C/O. HANAMANTAPPA S. NAREGAL
ANTAPPANAVAR ONI, NEAR APMC,
DHARAWAD, TQ/DIST. DHARWAD-580001.

...APPELLANT

(BY SRI S.C.HIREMATH, ADVOCATE.)

AND:

1. SHRI CHANNAPPA YALLAPPA TOTAR
AGE. MAJOR, OCC. BUSINESS
R/O. AVARADI, TQ. RAMADURG
DIST. BELAGAVI-591123.
2. THE MANAGER
CHOLAMANDALAM M.S.GENERAL
INSURANCE COMPANY LTD.,
2ND FLOOR, DAM HOUSE,
2ND NSC BOSE ROAD, CHENNAI-600001
REPRESENTED BY
THE BRANCH MANAGER
CHOLAMANDALAM M.S.GENERAL
INSURANCE COMPANY LTD.,
1ST FLOOR, KALABURGI SQUARE,



DESAI CROSS, DESHPANDE NAGAR,
HUBBALLI-580029.

...RESPONDENTS

(BY SRI RAVINDRA R. MANE, ADVOCATE FOR R2;
NOTICE TO R1 DISPENSED WITH.)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, 1988, PRAYING TO ALLOW THE APPEAL BY ENHANCING THE COMPENSATION FROM RS.1,71,362/- TO RS.20,55,000/- ALONG WITH INTEREST, BY MODIFYING THE JUDGMENT AND AWARD DATED 17.06.2019, PASSED IN MVC NO.330/2014, ON THE FILE OF THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, DHARWAD, IN THE INTEREST OF JUSTICE.

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

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.

ORAL JUDGMENT

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

The appellant/claimant has filed this appeal under section 173(1) of the M.V.Act, not satisfied with the compensation awarded in MVC No.330/2014, by judgment and award dated 17.06.2019, on the file of IV Additional



District and Sessions Judge and Additional MACT, Dharwad
(for short 'tribunal').

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

3. The claimant has filed the petition under Section 166 of M.V.Act, 1988, claiming compensation for the injuries sustained by him in a road traffic accident that had taken place on 07.11.2013, at about 10.00 a.m., near Chikkamannur Cross on Navalagund Road, involving the motorcycle bearing Regn.No.KA-24/P-6594.

4. The case of claimant in nutshell is that, he sustained fracture of shaft of right leg femur type-3; open fracture of shaft right tibia, compartment syndrome and thus, he sustained physical disability of 50% to his right lower limb.



5. After service of notice, respondent No.1 and 2 appeared through their respective counsels, but respondent No.1 has not filed objection to the petition, whereas respondent No.2-insurer has filed objection statement contending that the petition is false, frivolous, vexations and not maintainable. He has not admitted the insurance policy of the vehicle KA-24/P-6594 and his liability is subject to terms and conditions, exceptions and limitations of the insurance policy. He denied entire averments in the petition. He contended that, the driver was not having valid and effective driving licence as offence under Section 3 read with Section 181 of the M.V.Act was mentioned in the charge sheet filed against the driver.

6. To substantiate his contention, the claimant was examined as PW.1 apart from examining the doctor as PW.2 and marking Ex.P.1 to P.19.

7. After recording evidence of claimant and hearing arguments of both sides, the tribunal came to the



conclusion that the accident happened due to the rash and negligent driving of driver of the vehicle bearing No.KA-24/P-6594; claimant sustained injuries in the said accident and awarded compensation of ₹1,71,362/- under different heads as follows:

Sl.No.	Heads of compensation.	Amount in (₹)
1.	Towards pain and suffering.	25,000
2.	Towards attendant charges and special diet.	15,000
3.	Towards loss of income during the period of treatment.	10,000
4.	Towards physical disability and any other inconvenience.	25,000
5.	Towards medical expenses.	96,362
	TOTAL:	1,71,362

8. Not satisfied with the said compensation, appellant/claimant has preferred the present appeal.

9. Heard arguments of Sri S.C.Hiremath, learned counsel for the appellant and Sri Ravindra R. Mane, learned counsel for respondent No.2 insurance company and perused the material placed before the Court.



10. Learned counsel for appellant would submit that the compensation awarded by the tribunal under the heads 'pain and suffering' and 'attendant charges' are on the lower side. Loss of income during the period of treatment is given only at Rs.10,000/-, but the claimant has not attended his duty for 06 months and hence the compensation under said head is also on the lower side. As far as disability is concerned, the tribunal has awarded very less amount and prayed for enhancement of compensation.

11. Learned counsel for respondent No.1-Insurance Company would submit that the compensation awarded by the tribunal is in accordance with the principles of law laid down by the Hon'ble Apex Court in several judgments and it is just and fair compensation and thus, requires no interference.

12. Having heard the arguments of learned counsels for both parties and verifying the records, the only point



that would arise for consideration is, *"whether the claimant is entitled for enhanced compensation?"*

13. Our finding on the above point is in 'affirmative' for the following reasons.

14. The date, place, time of accident and the manner in which the accident occurred are not in dispute. The rider of motorcycle was holding driving licence and the vehicle in question is validly insured with respondent No.2 are admitted facts.

15. The claimant has sustained fracture of shaft of right leg femur, type-3 open fracture of shaft right tibia and doctor assessed disability at 50% to his right lower limb. Claimant is working as peon in Navalgund High School and continued his avocation. Hence, there is no functional disability to the claimant. However, considering the nature of two fractured injuries to his right lower limb, the compensation of ₹25,000/- awarded towards pain and suffering would be less and it ought to be ₹50,000/-; as far



as attendant charges and special diet are concerned, the claimant was hospitalized for 34 days and hence ₹45,000/- ought to have been awarded under this head instead of ₹15,000/- awarded by the tribunal.

16. Even though it is claimed that the claimant took complete bed rest and taken leave for 06 months to his job, he has not produced his leave certificate or any other document and hence, it is not believable. Therefore, towards loss of income during the period of treatment awarded at ₹10,000/-, is appropriate because the accident happened in the year 2013. Towards physical disability and other inconvenience, which includes loss of amenities, the tribunal has awarded only ₹25,000/- but it ought to have been ₹50,000/-. As far as medical expenses is concerned, by verifying the actual medical bills, the tribunal has awarded ₹96,362/-, which needs no interference. Hence, we are of the opinion that the claimant is entitled for compensation under various heads as under:



Sl.No.	Heads of compensation.	Amount in (₹)
1.	Towards pain and suffering.	50,000
2.	Towards attendant charges and special diet.	45,000
3.	Towards loss of income during the period of treatment.	10,000
4.	Towards physical disability and any other inconvenience including loss of amenities	50,000
5.	Towards medical expenses.	96,362
	TOTAL:	2,51,362

17. Therefore, the claimant is entitled for a total compensation of Rs.2,51,362/- instead of Rs.1,71,362/- awarded by the Tribunal.

18. Accordingly, we proceed to pass the following:

ORDER

i) The appeal is allowed in part.

ii) The judgment and award dated 17.06.2019, passed in MVC No.330/2014, on the file of IV Additional District and Sessions Judge and Additional MACT, Dharwad, is modified.



iii) The claimant is entitled for total compensation of Rs.2,51,362/- along with interest at the rate of 6% p.a. from the date of petition till the date of realization.

iv) The respondent No.2 insurance Company shall deposit compensation amount with interest within a period of eight weeks from the date of receipt of a copy of this judgment.

v) Draw modified award accordingly.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE