



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 5315 OF 2020 (MV-I)

BETWEEN:

SANAULLA
S/O. ABDUL RAHEEM,
AGED ABOUT 54 YEARS,
R/AT EWS-47, KHB COLONY,
HOUSING BOARD,
HUNSUR - 571 105,
MYSURU DISTRICT.

...APPELLANT

(BY SRI. SYED ABDUL SABOOR.,ADVOCATE)

AND:

THE DIVISIONAL CONTROLLER
KSRTC, BANNIMANTAP,
RURAL DIVISION,
MYSURU - 570 015.

...RESPONDENT

(BY SRI. B.S. KARTIKEYAN, ADVOCATE)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 31.07.2019 PASSED IN MVC NO.349/2017 ON THE FILE OF THE JUDGE, PRINCIPAL COURT OF SMALL CAUSES, AS A PRESIDING OFFICER, MOTOR ACCIDENTS CLAIMS TRIBUNAL, PRINCIPAL SMALL CAUSES AND SENIOR CIVIL JUDGE, MYSURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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SHARADAVANI
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Location: High
Court of
Karnataka



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

CORAM: HON'BLE MR. JUSTICE UMESH M ADIGA

ORAL JUDGMENT

This appeal is filed by the claimant being aggrieved by the judgment and award dated 31st July 2019, passed by the Judge, Principal Court of Small Causes and Senior Civil Judge, Motor Accidents Claims Tribunal, Mysuru, (for short `Tribunal'), in MVC No.349/2017, seeking enhancement of compensation.

Though this appeal is listed for admission, with the consent of both the parties it is taken up for final disposal.

2. For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

3. The brief facts of the case are that, on 19.12.2016 at about 05.00 p.m., in front of KSRTC bus stand at Hunsur, the claimant met with an accident due to rash and negligent driving of the bus bearing registration No.KA-09-F-5152 belonging to respondent-corporation. Due to the impact, the claimant sustained fracture of distal end of left radius. It is further case of the claimant that he was aged about 60 years at



the time of accident. He was an auto driver and was earning Rs.15,000/- per month. Due to injuries sustained in the incident, he has suffered permanent disability at 48.5% to the upper limb. He has spent substantial amount towards medical expenses. Due to the injuries sustained in the incident, he has lost few amenities available to a healthy person. With these reasons, prayed to award compensation.

4. The respondent denied the petition averments and denied its liability to pay the compensation. According to the respondent, the accident occurred due to negligence of the claimant. With these reasons, prayed to dismiss the claim petition.

5. From the rival contentions of the parties, the Tribunal framed necessary issues, for its determination.

6. The claimant to prove his case examined two witnesses as PW-1 and PW-2 and marked 12 documents, as per Exs.P-1 to P-12. Respondent examined two witnesses as RW-1 and RW-2 and marked documents as Exs.R-1 and R-2.



7. The Tribunal after hearing both parties and appreciating the evidence on record, awarded global compensation of Rs.75,000/-.

8. Being dissatisfied with the amount of compensation awarded by the Tribunal, the claimant preferred this appeal.

9. The fact of the accident, nature of injuries sustained by the claimant, his age and his occupation are not seriously disputed. The respondent has also not filed any appeal against the said judgment. Therefore, there is no need to reconsider the same.

10. The Tribunal in the impugned judgment at paragraph Nos.16 to 18 assigned reasons for awarding compensation of Rs.75,000/-. The Tribunal has not bifurcated the compensation under different heads. Undisputedly, the claimant sustained comminuted fracture of residual end of the left radius. He was aged about 60 years at the time of accident and was an adult rickshaw driver. Considering the said fact, PW.2 assessed the disability as 48.5%. The contention of learned counsel for the appellant is that the Tribunal ought to have considered 1/3rd of the same as disability to the whole



body. Learned counsel for the respondent contends that, the said disability assessed by PW.2 is exorbitant and without any basis. Therefore, the Tribunal has rightly not awarded the compensation under the head loss of future earning capacity due to permanent disability.

11. Looking at the nature of work, age of the claimant, injuries sustained by him and disability assessed by PW.2 is on the higher side. Even if we consider the Schedule I of the Employee Compensation Act, an amputation of an upper limb below the elbow joint leads to 70% disability. Therefore, fracture of distal end of the left radius may not lead to disability at 48.5% to the upper limb. Considering these facts, permanent disability is considered as 10% to the whole body.

12. The claimant was unable to prove his income as Rs.15,000/- per month by substantial evidence. Therefore, his notional income has to be assessed as per the notional income chart prepared by the Karnataka State Legal Services Authority. Following the chart income of the claimant is taken as Rs.9,500/- per month. Undisputedly, he was aged about 60 years. Therefore, the suitable multiplier applicable is '9'. On the



basis of the above said factors, the compensation under the head loss of future earning capacity due to permanent disability is assessed.

13. Looking at the facts and circumstances of the case, the claimant is entitled to the following amount of compensation:

Particulars	Amount in Rs.
Pain and sufferings	40,000/-
Medical expenses	10,325/-
Loss of income during laid up period (Rs.9,500/- x 3)	28,500/-
Loss of future earning capacity due to disability (Rs.9,500/- x 12 x 9 x 10%)	1,02,600
Loss of amenities	25,000/-
<i>Total</i>	<i>2,06,425/-</i>
<i>Amount awarded by the Tribunal</i>	<i>75,000/-</i>
<i>Enhancement-</i>	<i>1,31,425/-</i>
<i>Rounded off-</i>	<i>1,32,000/-</i>



14. The claimant is entitled to interest on the enhanced amount at the rate of 6% per annum from the date of petition till its realization. The respondent is liable to pay the same.

15. In the result, I proceed to pass the following:

ORDER

- i) The Appeal is ***allowed in part.***
- ii) The judgment and award dated 31st July 2019, passed in MVC.No.349/2017, by the Judge, Principal Court of Small Causes and Senior Civil Juge, Motor Accidents Claims Tribunal, Mysuru, stands modified;
- iii) The claimant is entitled to enhanced compensation of Rs.1,32,000/-, with interest at the rate of 6% p.a. from the date of petition till its realization.
- iv) The respondent shall deposit the amount within a period of eight weeks from the date of award.
- v) The enhanced amount of compensation is marginal. Therefore, entire amount is ordered to be released in favour of claimant on due identification.



vi) Draw award accordingly.

Registry is directed to send copy of this judgment to the concerned Tribunal.

Sd/-
(UMESH M ADIGA)
JUDGE

AMA
List No.: 1 Sl No.: 16