



CNR: KAHC010150152015

NC: 2026:KHC:52890
MFA No. 1009 of 2015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO. 1009 OF 2015 (MV-I)

BETWEEN:

SRI. KUMAR H.C,
S/O CHENNEGOWDA,
AGED ABOUT 32 YEARS,
R/AT NO.20, 5TH MIAN,
ADITHYANAGAR,
KOTHUNURU MAIN ROAD,
BANGALORE - 560 062.

...APPELLANT

(BY SRI. SATHISH B, ADVOCATE)

AND:

1. THE MANAGER
UNITED INDIA INSURANCE CO. LTD,
5TH AND 6TH FLOOR,
KRUSHI BHAVAN BUILDING,
HUDSON CIRCLE, BANGALORE - 01.

2. SRI. SRINIVASA S.T.
S/O THAGADAPPA,
NO.13, GOLLAHALLY KENGERI,
SATELLITE TOWN, BANGALORE - 60.

...RESPONDENTS

(BY SRI. O MAHESH, ADVOCATE FOR R1;
VIDE COURT ORDER DATED 20.06.2019, NOTICE TO R2 IS
DISPENSED WITH)

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signed by
ANNAPURNA
G
Location: High
Court of
Karnataka



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THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 25.11.2014 PASSED IN MVC NO. 4384/2013 ON THE FILE OF THE XII ADDITIONAL SMALL CAUSES JUDGE AND MEMBER, MACT, BANGALORE, 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 MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging Judgment and Award dated 25.11.2014 passed by XII Additional Small Causes Judge and Member, M. A. C. T at Bangalore in MVC no.4384/2013, this appeal is by claimant.

2. Sri B. Sathish, learned counsel for the appellant submitted that appeal was by claimant for enhancement of compensation.

3. Brief facts leading to this appeal are that, on 23.06.2013 at 04.15p.m., when claimant was riding motorcycle bearing no.KA-42-E-6061 on Sathanur-Channapatna road, near



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Swamy's Nursery, driver of car bearing no.KA-41-M-2743 drove it in rash and negligent manner, from opposite direction and it dashed against claimant's motorcycle causing accident. Despite treatment at Kanakapura Government Hospital and KIMS Hospital, claimant did not recover fully and sustained loss of earning capacity. Therefore, he filed claim petition against insurer and owner of car under Section 166 of Motors Vehicle Act, 1989 ('M.V. Act' for short).

4. Despite service of notice, owner did not appear and was placed ex-parte. Only insurer opposed claim petition on all grounds. Based on pleadings, Tribunal framed issues and recorded evidence. Claimant examined himself and Dr.R. Yatish as PWs1 and 2 and got marked Exhibits P1 to P15. Respondents did not lead evidence.

5. On consideration, Tribunal held that accident had occurred due to rash and negligent driving of insured vehicle by driver and claimant had sustained physical disability and entitled for compensation from insurer, assessed as follows:

1. Pain and suffering	Rs. 30,000-00
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2. Loss of income during laid up period	Rs. 10,000-00
3. Medical bills	Rs. 33,088-00
4. Loss of future earning	Rs. 81,600-00
5. Loss of amenities, conveyance, food and nourishment, attendant charges etc.	Rs. 10,000-00
6. Future medical expenses	Rs. 10,000-00
Total	Rs. 1,74,688-00

Dissatisfied with quantum, present appeal is filed.

6. It was submitted that as on date of accident, claimant was 30 years of age and earning more than Rs.6,000/- from fertilizer and cement business and sustained posterior dislocation left elbow with fracture of radial head. It is submitted that PW2 examined claimant and assessed disability of 40% to left upper limb and 12% to whole body. However, Tribunal erroneously considered monthly income as only Rs.5,000/-, disability at 8% and applying multiplier of '17', awarded inadequate compensation. Monthly income and extent of disability were required to be enhanced. It was submitted that Tribunal awarded inadequate compensation of only Rs.10,000/- towards loss of income during laid up period. Even compensation of Rs.30,000/- awarded towards pain and



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suffering, Rs.10,000/- towards loss of amenities including convenience, food and nourishment and future medical expenses of Rs.10,000/- were on lower side and sought enhancement.

7. On other hand, Sri O. Mahesh, learned counsel for insurer would oppose claim for enhancement. It was submitted that Tribunal assessed compensation under each of heads separately and awarded just compensation and there was no scope for enhancement.

8. Heard learned counsel for parties and perused impugned judgment and award.

9. From above and since only claimant is in appeal for enhancement, sole point that arises for consideration is whether claimant is entitled for enhancement of compensation. Same is answered partly in affirmative for following reason:

10. There is no dispute about fact that claimant, aged 30 years earning more than Rs.6,000/- per month from cement/fertilizer business sustained fracture of left radius and



dislocation of left elbow joint assessed by PW2 to have caused physical disability of 40% to left upper limb and 12% to whole body.

11. While passing impugned award, Tribunal has taken note of fracture and awarded Rs.30,000/- towards pain and suffering. Fracture of left radius would be a fracture to a structural bone. Normally for such fractures, compensation of Rs.40,000/- is awarded. There is also dislocation fracture of left elbow joint. Therefore, Rs.10,000/- has to be added towards it. Thus, compensation towards pain and suffering would be Rs.50,000/-. Tribunal has considered monthly income of claimant at Rs.5,000/- and considered period of 2 months as layoff during healing. Normally fractures take about 3 months to heal. Insofar as monthly income though claimant stated that he was earning more than Rs.6,000/- from business, there is no material to establish business or income. Therefore, monthly income has to be assessed notionally. Notional income for year 2013 is Rs.8,000/-. Same has to be considered. Consequently, compensation towards loss of income during treatment period would be $\text{Rs.8,000/-} \times 3 = \text{Rs.24,000/-}$. Tribunal has awarded



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Rs.33,088/- towards medical expenses in full reimbursement of bills produced. Therefore, there would be no scope for enhancement. Insofar as future loss of income, as rightly pointed out by learned counsel for Insurer, Tribunal noted that fracture is united. However, referring to assessment of disability by PW2, assessment of loss of earning capacity at 8% would appear just and proper. Consequently, compensation towards future loss of income would be $\text{Rs.8,000/-} \times 8\% \times 12 \times 17 = \text{Rs.1,30,560/-}$. Tribunal has awarded sum of Rs.10,000/- towards loss of amenities, convenience, food and nourishment and attendance charges. Tribunal has observed that claimant had taken inpatient treatment for a period of 19 days. Considering same, compensation of Rs.10,000/- awarded would be confined to compensation under incidental expenses and a separate amount of Rs.20,000/- awarded towards loss of amenities. Tribunal has awarded Rs.10,000/- towards future medical expenses. In absence of any material, same would not appear in adequate or warranting interference. Thus, claimant would be entitle for total compensation of Rs.2,77,648/- as against Rs.1,74,688/-. Consequently, following:



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ORDER

- (i) Appeal is ***allowed-in-part.***
- (ii) Claimant is held entitled for reassessed compensation of Rs.2,77,648/- as against Rs.1,74,688/- with interest at 6% per annum from the date of its realisation till deposit.
- (iii) Insurer is directed to deposit enhanced compensation before Tribunal within 6 weeks.
- (iv) On deposit, entire enhanced compensation with interest is ordered to be released in favour of claimant, by electronic mail.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

JY
List No.: 1 Sl No.: 6