



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.5901/2018 (MV-I)

BETWEEN:

JAYASHEELAMMA
AGED ABOUT 53 YEARS
W/O LATE VENKATAPATHIYAPPA
R/AT MUDUVATHI VILLAGE
KOLAR TALUK
NOW R/AT HEBBAGODI
ANEKAL TALUK
BANGALORE DISTRICT - 560099.

...APPELLANT

(BY SRI. PAVANA CHANDRA SHETTY H, ADV.,)

AND:

DIVISIONAL CONTROLLER
KOLAR DEPOT
KOLAR DISTRICT - 563101.

...RESPONDENT

(BY SRI. D. VIJAYAKUMAR, ADV., [ABSENT])

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THIS MFA IS FILED U/S 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 27.02.2018, PASSED IN MVC NO.183/2015, ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE & CHIEF JUDICIAL MAGISTRATE AND MACT, KOLAR, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

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by RUPA V
Location: HIGH
COURT OF
KARNATAKA



CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL)

This appeal is filed by the injured-claimant challenging the judgment and award dated 27.02.2018 passed in M.V.C.No.183/2015 by the Principal Senior Civil Judge and CJM at MACT, Kolar (for short, 'Tribunal').

2. Sri.H.Pavana Chandra Shetty, learned counsel for the appellant submits that the Tribunal has committed a grave error in assessing the income at Rs.6,000/- p.m. by ignoring the pleading and evidence on record as the injured was working as a Coolie and used to earn Rs.15,000/- p.m. It is submitted that the Tribunal has further committed an error in not awarding any compensation under the head of loss of future prospects at 10% of the assessed income as the right upper limb of the injured has been amputated upto shoulder and the Tribunal has assessed the disability at 90%. It is further



submitted that the Tribunal has not awarded any compensation under the head of loss of income during the laidup period and also towards purchase of artificial limb. Hence, he seeks to allow the appeal.

3. The respondent is called out. There is no representation.

4. We have heard the arguments of the learned counsel for the appellant and meticulously perused the material available on record (including Tribunal records).

5. The only point that would arise for consideration in this appeal is:

"Whether the impugned judgment and award passed by the Tribunal calls for any interference?"

6. The aforesaid point is answered in the affirmative for the following reasons:

(a) The appellant who was aged about 50 years at the time of accident met with a road accident on



13.04.2015 and sustained injuries and fracture. The appellant was provided treatment at R.L.Jalappa Hospital, Kolar and thereafter, she was referred to PRIMUS Hospital, wherein the appellant was an inpatient from 13.04.2015 to 27.04.2015 and during the treatment, the right upper limb of the appellant was amputated above elbow.

(b) It is averred that the appellant was working as a Coolie and used to earn Rs.15,000/- p.m. It is to be noticed that in order to prove the averments of the claim petition, the appellant examined herself as PW-1 and got marked Exs.P1 to P17. The respondent examined RW-1 but did not produce any documentary evidence.

(c) The Tribunal, considering the oral and documentary evidence, assessed the income of the injured at Rs.6,000/- p.m., disability at 90% and awarded total compensation of Rs.14,19,800/- by directing the respondent-Corporation to pay the compensation along with interest @ 6% p.a.



(d) It is to be noticed that though the appellant claimed that she was earning Rs.15,000/- p.m., however no cogent or acceptable evidence is placed on record to substantiate the same. Hence, the income of the appellant is re-assessed at Rs.9,000/- p.m. placing reliance on the notional income chart prepared by the Karnataka State Legal Services Authority. The evidence on record indicates that the appellant's right upper limb above elbow is amputated. Considering the said evidence, the Tribunal assessed the disability at 90%. Having assessed the disability at 90%, in our view the appellant would be entitled to additional 10% of the assessed income under the head of loss of future income.

(e) It is to be noticed that the Tribunal has failed to award any compensation under the head of loss of income during laidup period as the appellant was hospitalized and was under treatment for 14 days and even after discharge, she continued to take treatment as an outpatient.



Considering the said evidence on record, we find that the appellant would have taken rest for a period of four months which includes the hospitalization period and the period after discharge. Hence, the compensation towards loss of income during laidup period would be $9,000 \times 4 = \text{Rs.}36,000/-$.

(f) It is also to be noticed that though the Tribunal recorded a finding that the appellant has sustained disability at 90% and that his right upper limb has been amputated, it has failed to award compensation for purchase of artificial limb. Taking note of the disability suffered and keeping in mind the vocation of the appellant, we are of the view that interest of justice would be met if we award Rs.50,000/- towards the purchase of artificial limb.

7. Thus, the appellant would be entitled to modified compensation as under:



HEADS	AMOUNT (in Rs.)
Pain and suffering	1,00,000
Medical expenses	4,92,000
Loss of income during laid up period (9000 x 4)	36,000
Loss of future income due to disability (9000 + 10% x 12 x 11 x 90%)	11,76,120
Food, nourishment, conveyance and attendant charges	25,000
Loss of amenities	1,00,000
Purchase of artificial limb	50,000
Total	19,79,120

Thus, the appellant-claimant shall be entitled to a total compensation of **Rs.19,79,120/-** as against Rs.14,19,800/- awarded by the Tribunal.

8. In the result, this Court proceeds to pass the following:

ORDER

- a) The appeal is ***allowed in part.***
- b) The impugned judgment and award dated 27.02.2018 passed by the Tribunal in M.V.C.No.183/2015 is modified to an extent that the appellant-claimant would be entitled to total compensation of **Rs.19,79,120/-** as against Rs.14,19,800/- awarded by the Tribunal.



- c) The enhanced compensation shall carry interest at the rate of 6% p.a. from the date of petition till realisation.
- d) The respondent-Insurance Company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of six weeks from the date of receipt of the certified copy of this judgment.
- e) The rest of the judgment and award of the Tribunal with respect to apportionment, deposit and release shall remain unaltered.
- f) Registry shall transmit the records to the Tribunal forthwith.

Draw the modified award accordingly.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE