



CNR: KAHC010284392019

NC: 2026:KHC:39990
MFA No. 3107 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JULY, 2026

BEFORE

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

MISCELLANEOUS FIRST APPEAL NO.3107 OF 2019(MV-I)

BETWEEN:

THE ORIENTAL INSURANCE COMPANY LIMITED
NEW MUSLIM HOSTEL COMPLEX
OPP FIRE BRIGADE,
SASRASWATHIPURAM,
MYSURU.

ALSO AT ORIENTAL INSURANCE
COMPANY LIMITED, TP HUB,
REGIONAL OFFICE, LEO SHOPPING COMPLEX,
NO.44/46, RESIDENCY ROAD CROSS,
BENGALURU-560 025.

NOW REPRESENTED BY MANAGER LEGAL.

...APPELLANT

(BY SRI. ASHOK N PATIL, ADVOCATE)

AND:

1. MANJUNATHA
S/O LATE RANGAPPA,
AGED ABOUT 28 YEARS,
R/O MACHANAYAKANAHALLI VILLAGE,
BINDIGANAVILE HOBLI,
NAGAMANGALA TALUK,
MANDYA DISTRICT.

Digitally signed
by AASEEFA
PARVEEN

Location: HIGH
COURT OF
KARNATAKA



CNR: KAHC010284392019

NC: 2026:KHC:39990
MFA No. 3107 of 2019

2. C.J.SWAMY
S/O JAYADEVAIAH,
NO.44 CHIKKAMANDYA,
GOPALAPURA POST,
MANDYA TALUK,
MANDYA DISTRICT.

...RESPONDENTS

(R1 AND R2- SERVED, UN-REPRESENTED)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 22/11/2018, PASSED IN MVC NO.404/2015, ON THE FILE OF THE SENIOR CIVIL JUDGE & MACT, NAGAMANGALA, AWARDED COMPENSATION OF RS.3,29,280/- WITH INTEREST AT THE RATE OF 6% P.A., FROM THE DATE OF PETITION TILL THE DATE OF DEPOSIT.

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

CORAM: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

Heard Sri.Ashok.N.Patil, learned counsel for the appellant.

2. Challenge in this appeal is the award that is passed by the Motor Accident Claims Tribunal, Mandya in MVC No.404/2015 dated 22.11.2018. The insurance company against which liability is fixed to pay 80% of the



CNR: KAHC010284392019

entitled amount is before this Court raising a contention that assessment of compensation by the Tribunal is improper and thereby Tribunal awarded excessive sum as compensation.

3. Though notice was served upon the respondents, respondents have not chosen to contest the case.

4. Arguing on merits of the matter, learned counsel for the appellant contends that appellant sustained fracture of femur prior to the date of accident itself. The injury sustained during the course of accident did not result in permanent physical disability of 20% as assessed by the Tribunal. Without taking into consideration the nature of injury sustained, basing on the testimony of Pw.2, Tribunal concluded that the disability in respect of whole body can be taken as 20%. Learned counsel submits that respondent No.1/claimant sustained only one grievous injury and that injury does not result in 20%



CNR: KAHC010284392019

NC: 2026:KHC:39990
MFA No. 3107 of 2019

permanent physical disability. Learned counsel thereby seeks to pass necessary orders.

5. The evidence of Pw.2 is that respondent No.1/claimant sustained fracture of proximal tibia and fibula right which is grievous in nature. Having considered the evidence of Pw.2 and the documentary evidence produced, this Court is of the view that the disability in respect of whole body can be considered to be 10% but not 20%. Taking the disability in respect of whole body as 20%, Tribunal held that respondent No.1/claimant is entitled to a sum of Rs.3,45,600/- towards loss of future earnings. Therefore, the amount awarded under the said head is required to be reduced. However, Tribunal failed to award any compensation for the loss, the appellant would have sustained while taking bed rest during the period of treatment until the date of recovery. Further compensation granted under the head pain and suffering and transportation is too meagre. Hence, considering all these aspects, this Court is of the view that compensation



CNR: KAHC010284392019

granted by the Tribunal if reduced by Rs.1,00,000/-, the remaining amount which the respondent No.1/claimant gets will be highly justifiable. Thus appellant would be at liability to pay a sum of Rs.80,000/- (80% of Rs.1,00,000/-) less out of the total sum which he is liable to pay as per the orders of the Tribunal, in the light of the fact that, Tribunal gave a finding to the effect that, contributing negligence on the part of respondent No.1/claimant is 20%. Therefore, total sum which the appellant is liable to pay to respondent No.1/claimant comes to Rs.2,49,280/- (Rs.3,29,280-Rs.80,000). Therefore, appeal is disposed of with the following:

ORDER

- (i) Appeal is allowed in part.
- (ii) The compensation which the appellant is ordered to pay by the Motor Accident Claims Tribunal, Mandya through orders in MVC No.404/2015 dated 22.11.2018 is



CNR: KAHC010284392019

NC: 2026:KHC:39990
MFA No. 3107 of 2019

reduced from Rs.3,29,280/- to
Rs.2,49,280/-.

(iii) Amount if any, in deposit be transmitted to
the concerned Tribunal.

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

NS
CT:TSM
List No.: 1 Sl No.: 46