



CNR: KAHC010404222019

NC: 2026:KHC:51122
MFA No. 6112 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.6112 OF 2019(MV-I)

BETWEEN:

GANGADHAR @ GANGADHAR T
S/O THIPPAIAH,
AGED ABOUT 46 YEARS
R/O KUNICHIGANAL VILLAGE,
CHITRADURGA TALUK,
CHITRADURGA DISTRICT.

...APPELLANT

(BY SRI GIREESHA S.N., ADVOCATE FOR
SRI MANJUNATH N D., ADVOCATE)

AND:

1. SEETHAMMA K
W/O THIPPESWAMY B.R.
AGED ABOUT 55 YEARS
OWNER OF THE CAR BEARING
REG NO.KA-18/Z-2306
R/O HOUSE NO.325,
PENSION MOHALLA
CHIKKAMAGALUR - 577 101.
2. THE BRANCH MANAGER
RELIANCE GENERAL INS. CO. LTD.,
BRANCH OFFICE, MAGANUR COMPLEX,
NEAR KSRTC BUS STAND
CHITRADURGA - 577 501.

...RESPONDENTS

(BY SRI D.VIJAYA KUMAR, ADVOCATE FOR R2;
V/C/O DATED 16.08.2021 NOTICE TO R1 IS D/W)

Digitally signed
by ANUSHA V
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 06.05.2019 PASSED IN MVC NO.767/2018 ON THE FILE OF THE C/c. II ADDITIONAL SENIOR CIVIL JUDGE AND ADDITIONAL MACT-V, CHITRADURGA, 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 06.05.2019 passed by II Addl. Senior Civil Judge and Addl. MACT, Chitradurga ('**Tribunal**') in MVC no.767/2018, this appeal is filed.

2. Sri Gireesha S.N., learned counsel appearing for Sri Manjunath N.D., advocate for appellant submitted appeal was by claimant for enhancement of compensation.

3. Brief facts leading to this appeal, as stated, are that at 9:30 p.m. on 20.03.2018 when claimant and his friend were proceeding in Car no.KA-18/2306 on NH-4 near Sibara village,



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Chitradurga, a tractor trailer appeared suddenly. At that time, driver of Car drove it in rash and negligent manner and dashed against road divider. In said accident, claimant sustained grievous injuries and despite treatment he did not recover fully and sustained loss of earning capacity. Claiming compensation, he filed claim petition in MVC no.767/2018 under Section 166 of Motor Vehicles Act, 1988 ('**MV Act**') against owner and insurer of Car.

4. On contest wherein claim petition was opposed on all grounds. Tribunal framed issues and recorded evidence.

5. Claimant examined himself and Dr.H.Chennareddy as PWs.1 and 2 and got marked Exs.P1 to P11. In rebuttal, insurer examined its official as RW.1 and got marked copy of insurance policy as Ex.R1.

6. On consideration, Tribunal answered issues in favour of claimant, assessed total compensation of Rs.2,15,795/- and held insurer liable to pay same with 8% interest per annum. Dissatisfied with same, this appeal is filed.



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7. It was submitted that as on date of accident, claimant was 45 years of age, working as coolie and earning Rs.25,000/- per month. However, Tribunal erroneously considered only Rs.8,000/- as monthly income. It was further submitted, though claimant sustained fracture of right radius and ulna i.e. two fractures, Tribunal awarded only Rs.15,000/- towards pain and suffering which was on lower side. It was submitted, taking note of assessment of disability to limb at 41% by PW.2, Tribunal assessed loss of earning capacity at 10%, applied correct multiplier of '14' and assessed compensation. It was submitted that notional income for year of accident i.e. 2018 was Rs.12,500/-. Therefore, compensation towards future loss of income was required to be scaled up. It was submitted, Tribunal had not awarded any compensation towards loss of income during laid up period and sought for allowing appeal by awarding same.

8. On other hand, Sri D. Vijaya Kumar, learned counsel for respondent no.2 - insurer opposed appeal. It was submitted that Tribunal had taking note of facts and circumstances of case, material on record rightly assessed



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compensation under each of heads leaving no scope for enhancement. On said grounds sought for dismissal.

9. Heard learned counsel, perused impugned judgment, award and record.

10. Since only claimant is in appeal, point that arises for consideration is:

"Whether claimant is entitled for enhancement of compensation as prayed?"

11. Same is answered partly in affirmative for following reasons:

- (i) Though claimant stated that he was 45 years of age and earning Rs.25,000/- per month working as Coolie, there is no specific material produced to establish it. In absence of same, Tribunal rightly assessed it notionally. But notionally income for year of accident i.e. 2018 being Rs.12,500/-, Tribunal erred in taking it at only Rs.8,000/-. There is no dispute about assessment of loss of earning capacity at 10% and multiplier applicable at '14'. Thus, compensation towards future loss of income would be Rs.12,500/- X 10% X 12 X 14 = **Rs.2,10,000/-.**



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(ii) As rightly contented when claimant has sustained fracture of right radius and ulna, Tribunal was not justified in awarding only Rs.15,000/- towards pain and suffering. Same is scaled up to **Rs.35,000/-**. Tribunal has awarded Rs.1,395/- towards medical expenses in full reimbursement of bills produced, leaving no scope for enhancement.

(iii) Tribunal has also awarded Rs.15,000/- towards food, attendant and other incident expenses. Considering inpatient period of 10 days same would be justified. No enhancement.

(iv) Tribunal has awarded Rs.50,000/- towards loss of amenities which cannot be stated to be grossly inadequate as to warrant interference. However, Tribunal erred in not awarding any compensation towards loss of income during laid up period. Normally, fractures take about 2 to 3 months to heal. Considering Rs.12,500/- as monthly income, claimant would be entitled to **Rs.37,500/-** towards same.

12. In view of above, claimant would be entitled for total reassessed compensation of **Rs.3,48,895/-**. Thus, there is enhancement of compensation by **Rs.1,33,100/-**. Hence, following:



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ORDER

- (a) Appeal is ***allowed in part***; claimant is entitled for additional compensation of **Rs.1,33,100/-** with interest at 8% per annum from date of claim petition till deposit.
- (b) Respondent no.2 - Insurer is directed to deposit same within Six weeks.
- (c) On deposit, entire enhanced compensation with interest is ordered to be released in favour of claimant by electronic means.

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

GRD
List No.: 1 Sl No.: 27