



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

MISCELLANEOUS FIRST APPEAL NO. 7733 OF 2014 (MV-I)

BETWEEN:

PRADEEP KUMAR M
S/O LAKKAPPA GOWDA
AGED ABOUT 35 YEARS
R/AT NO.223, 10TH CROSS
FIRST STAGE,
B E M L LAYOUT
BANGALORE 560079

...APPELLANT

(BY SRI. JWALA KUMAR K V, ADVOCATE)

AND:

1. THE MANAGER,
RELIANCE GENERAL INSURANCE
NO.4/3-1 AND 3/2 M
11TH MAIN , ROAD,
THIRD BLOCK,
JAYANAGAR
BANGALORE 560 086
2. SMT RANI R
W/O RAJENDRA
AGED ABOUT MAJOR
NO.13/1, II FLOOR,
II CROSS,



LUBBY MANSION STREET
NEAR COMMERCIAL STREET
BANGALORE 560 001

3. MR DAYAKAR NAIDU
S/O HANUMANTHA NAIDU
AGED ABOUT 33 YEARS
NO.17/1,
THAPO MADALIYAR STREET
SHIVAJI NAGAR
BANGALORE 560 001

...RESPONDENTS

(BY SRI. H C BETSUR, ADVOCATE FOR R1
NOTICE TO R2 & R3 IS DISPENSED WITH
V/O DTD 27.03.2015)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 7.8.2014 PASSED IN MVC
NO.4262/2011 ON THE FILE OF THE 22ND ADDITIONAL SMALL
CAUSES JUDGE, MEMBER, MACT, COURT OF SMALL CAUSES,
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 C.M. POONACHA



ORAL JUDGMENT

1. The present appeal is filed by the claimant being dissatisfied with the quantum of compensation awarded vide judgment and award dated 07.08.2014 passed in MVC No.4262/2011 by the XXII Additional Small Causes Judge, Member, MACT, Court of Small Causes, Bengaluru¹. The Tribunal partly allowed the claim petition and awarded a total compensation of ₹45,000/- together with interest at 6% p.a.

2. The finding of the Tribunal on negligence and liability are not under challenge and have attained finality. Hence, the only question that is to be adjudicated in the present appeal is the adequacy of the quantum of compensation.

3. Seeking for enhancement of the compensation the learned counsel for the appellant - claimant vehemently contends that the claimant having sustained fracture of the ulna and other injuries; having examined the doctors (PW2 and PW3) as well as placing extensive medical evidence, the Tribunal erred in awarding a meager sum of compensation towards pain and

¹ hereinafter referred to as '**Tribunal**'



suffering and loss of amenities apart from medical expenses and hence the compensation awarded by the Tribunal at ₹45,000/- is required to be enhanced.

4. *Per contra*, the learned counsel for the first respondent - insurer justifying the judgment and award of the Tribunal submits that the claimant (PW1) has admitted that he was receiving a salary of ₹47,000/- at the time of cross-examination, while he was drawing a salary of ₹40,000/- at the time of the accident. Hence, he contends that the compensation awarded by the Tribunal is just and proper.

5. It is forthcoming that claimant was aged 32 years as on date of the accident i.e., as on 16.01.2011. He was stated to be employed as Assistant Manager-Projects, Century Real Estate Holdings Pvt. Ltd., and earning a monthly income of ₹40,000/-.

6. The claimant sustained fracture of ulna and other injuries. He was admitted as an inpatient from 16.01.2011 to 19.01.2011 and again from 09.03.2011 to 11.03.2011, i.e., for a total period of 7 days. The medical evidence on record i.e., wound certificate (Ex.P8), discharge summaries (Exs.P9 and



P10) and the testimony of the doctors i.e., the doctor working in the department of Neurosurgery, who was examined as PW.2 and an Orthopedic surgeon, who was examined as PW3, discloses that the claimant sustained oblique fracture across the base of odontoid process with minimal displacement and comminuted intra articular fracture.

7. Although, PW2 has deposed that the claimant has sustained 10% neurological disability and PW3 has deposed that the claimant sustained 6% disability to the whole body, the Tribunal has not awarded any compensation towards loss of future earning capacity/disability.

8. In this context, it is also pertinent to note that although PW2 has deposed that claimant has sustained 10% neurological disability in the affidavit by way of examination - in - chief, in the cross-examination he has stated that he has not produced rough clinical notes or mathematical calculations or reasonings for having assessed the neurological disability at 10%. He has further stated that since the "injured is not having neurological complaints like, motor or sensory deficits, hence MRI is not required".



9. It is also pertinent to note, PW3 in the cross-examination has stated that there are no neurological deficits as far as injuries are concerned. PW3 has also stated that the injured holds the finger of the doctor tightly and the grip strength was demonstrated before the Tribunal. It was noticed by the Tribunal that PW3 examined the injured before the Tribunal clinically and that rotation on the right side is restricted at its terminal end while at the left side, the rotation is normal.

10. As rightly contented by the learned counsel for the respondent No.1 - insurer, PW.1 in his cross-examination has stated that he was drawing ₹40,000/- at the time of the accident and at the time of the cross-examination he was drawing ₹47,000/- per month as salary.

11. Although, it is the vehement contention of the learned counsel for the appellant - claimant that the claimant having been admitted as an inpatient and having taken treatment, loss of earning capacity ought to be awarded, apart from PW1 (claimant) stating that he has suffered loss of income for 3 months, no document is produced to demonstrate that the



claimant has not received salary for 3 months. No oral or documentary evidence of the employer of the claimant has been adduced in this regard as well. In the absence of the claimant adequately demonstrating that there was any functional disability, which has affected his earning capacity, the Tribunal was justified in not awarding any compensation towards loss of future earning capacity.

12. The Tribunal has also noticed that with regard to medical expenses, the claimant has produced medical bills amounting to ₹18,452/- and the other expenses were reimbursed by the insurance company. The Tribunal has awarded ₹25,000/- towards medical expenses including conveyance charges, attendant expenses, food and nourishment expenses. The same appears to be on the lower side. The compensation of ₹10,000/- awarded towards pain and suffering also appears to be on the lower side. Despite the Tribunal not having recorded any finding on disability, the Tribunal has awarded a sum of ₹10,000/- towards loss of amenities.

13. In view of the aforementioned discussion, in the interest of justice, it is expedient that a further global sum of ₹30,000/-



together with interest be awarded in addition to the compensation awarded by the Tribunal, in full and final claim of the appellant (claimant) in the present appeal.

14. Hence, the following order:

ORDER

- i. The above appeal is partly allowed;
- ii. The judgment and award dated 07.08.2014 passed in MVC No.4262/2011 by the XXII Additional Small Causes Judge, Member, MACT, Court of Small Causes, Bengaluru, is modified only to the extent of directing that the claimant will be entitled to a further compensation of ₹30,000/- together with interest at 6% p.a., from the date of petition till date of payment, in addition to the compensation awarded by the Tribunal. In all other respects, the judgment and award of the Tribunal remains unaltered;
- iii. Respondent No.1 - Insurance Company shall deposit the enhanced compensation together with accrued interest within a period of six weeks;
- iv. After deposit, the entire enhanced compensation with accrued interest shall be disbursed to the claimant digitally after proper identification;



- v. The Registry to draw the modified award accordingly;
- vi. Records be transmitted to the Tribunal forthwith;
- vii. No costs.

15. Pending interlocutory applications are also disposed of.

Sd/-
(C.M. POONACHA)
JUDGE

ND
List No.: 1 Sl No.: 28