



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCELLANEOUS FIRST APPEAL NO.7084 OF 2016(MV-I)

BETWEEN:

THE MANAGING DIRECTOR
BMTCL, SHANTHINAGAR,
SHANTHINAGAR,
BANGALORE-560 027
REPRESENTED BY IT'S
CHIEF LAW OFFICER

...APPELLANT

(BY SRI. F.S DABALI, ADVOCATE)

AND:

SRI ANAND B
S/O BYLAPPA,
AGED ABOUT 29 YEARS,
R/AT NO.20, 9TH CROSS, JYOTHINAGAR,
VAJARAHALLI MAIN ROAD,
NELAMANGALA,
BANGALORE RURAL -562 123

...RESPONDENT

(BY SRI. RAGHU R, ADVOCATE)

Digitally signed by
PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED:1.8.2016 PASSED IN MVC
NO.3392/2015 ON THE FILE OF THE MEMBER, MACT,
PRL.CHIEF JUDGE, COURT OF SMALL CAUSES, BENGALURU,
AWARDING A COMPENSATION OF RS.77,000/- WITH INTEREST
@ 9% P.A FROM THE DATE OF PETITION TILL REALIZATION.



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

CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent.

2. Being aggrieved by the judgment and award dated 01.08.2016 passed in MVC.No.3392/2015 by the Principal MACT and Chief Judge, Court of Small Causes, Bangalore, the appellant - Corporation has preferred this appeal.

3. The factual matrix of the case is that on 25.11.2014 at about 08.45 a.m. the claimant was riding his motorcycle bearing registration No.KA-04-HK-8376 from Nelamangala towards Yeshwanthapur and near Mylanahalli, a BMTC bus bearing registration No.KA-01-FA-1283 owned by the appellant - Corporation came in a rash and negligent manner and stopped abruptly, resulting in



the motorcycle of the claimant came in contact with the bus and in said accident the claimant suffered injuries. He was shifted to J.P. Hospital, Nelamangala and he was inpatient from 25.11.2014 to 27.11.2014.

4. The jurisdictional police registered a case and ultimately filed charge sheet against the claimant himself for negligent driving. The claimant has filed a claim petition under Section 163-A of the Motor Vehicles Act, 1988, seeking compensation from the appellant-Corporation.

5. On service of notice, the appellant-Corporation appeared and resisted the claim petition contending that the compensation claimed is highly exorbitant and imaginary and also denied the age, income and avocation of the claimant. It was contended that the accident occurred due to the negligence on the part of the claimant and therefore, the appellant - Corporation is not liable to pay any compensation.



6. It was contended that the claimant, in an endeavour to overtake a lorry which was going at his front, came on the wrong lane where the bus belonging to the appellant- Corporation was coming from the opposite direction and despite the bus stopped, it was the claimant who could not avoid the collision. Therefore, it sought for dismissal of the petition.

7. The Tribunal framed appropriate issues which are relevant for a petition under Section 163-A of the Motor Vehicles Act. The claimant examined himself as PW.1 and on his behalf, two witnesses were examined as PWs.2 and 3 and Exs.P1 to P10 were marked by him.

8. After hearing the arguments, the Tribunal has awarded a compensation of Rs.77,000/- to the claimant along with interest at the rate of 9% per annum from the date of petition till its realization.

9. Being aggrieved, the appellant - Corporation is before this Court in this appeal.



10. Learned counsel appearing for the appellant-Corporation would argue that the claim petition having been filed under Section 163-A of the Motor Vehicles Act, the calculation of the compensation should also be under the schedule to the Motor Vehicles Act. It is submitted that the compensation should be as per the schedule of the Employees' Compensation Act (for brevity, 'the EC Act') and not as per the calculation applicable to a petition under Section 166 of the Motor Vehicles Act.

11. He submits that the Tribunal though considered the income at Rs.3,300/- per month as per the schedule to the Motor Vehicles Act as applicable under Section 163-A, it failed to consider the quantum of the compensation as per the schedule of the EC Act and therefore, there is an error. He submits that the injury is not a scheduled injury and therefore, the judgment is not proper and correct. He also points out that the rate of interest should have been awarded at 6% but not 9% p.a.



12. *Per contra*, the learned counsel appearing for the claimant submits that the Tribunal has correctly assessed the income in appropriate manner and there is no need for any indulgence by this Court. He submits that the Tribunal has considered the injury as spoken by the medical officers who had treated the claimant. Therefore, the disability as stated by PW.3 has been considered by the Tribunal and the provisions of the EC Act provided for considering such a disability. Therefore, he contends that except insofar as it relates to the rate of interest, no other indulgence is required in the matter.

13. A careful perusal of the records would disclose that as per the provisions of Section 163-A of the Motor Vehicles Act, the compensation as per second schedule has to be calculated by the Tribunal. The second schedule to the Motor Vehicles Act shows that in case of general damages and injuries, clauses 4, 5 and 6 of the schedule are applicable. Clause 5(b) of the schedule states that in case of permanent partial disablement, such percentage of



the compensation which would have been payable in case of permanent total disablement as specified under item 'a' would be applicable.

14. In the case on hand, as per the testimony of PW.3, there is a permanent partial disablement. Therefore, the Tribunal after assessing the testimony of PW.3 has come to the conclusion that there is a permanent partial disability to the extent of 8%. It is also relevant to note that the Tribunal has taken the income of the claimant at Rs.3,300/- per month which is below Rs.40,000/- per annum, which squarely falls within the scope of Section 163-A of the Motor Vehicles Act.

15. Learned counsel for the appellant has pointed out that as per schedule to the EC Act, the injuries sustained by the claimant is not a schedule injury and therefore, the compensation on account of disability cannot be granted. It may be noted that the Courts, while dealing with the matters arising out of the EC Act, have



discarded the schedule injuries and have taken into their fold that even a fracture can also result in permanent partial disablement. Therefore, the strict applicability of part II of the schedule to the EC Act has been diluted by catena of judgments. If the schedule is to be adhered to, then there will not be any weightage for the testimony of a medical officer who deposes about the disability. Therefore, this argument of the learned counsel for the appellant that the injury suffered by the claimant in the form of comminuted fracture of right tibia, having not been listed in the schedule to the EC Act, the claimant is not entitled for compensation, cannot be accepted.

16. Thus, it is evident that so far as the procedure adopted by the Tribunal in calculating the compensation under Section 163-A cannot be found fault with. Thus, the question narrows down to the disability of the claimant. The claimant had suffered comminuted fracture of the right tibia and claimed himself to be a labourer under different employers. He also contended that he is aged 28



years and for the age of 28 years, the appropriate multiplier would be '18' as per schedule II.

17. The Tribunal, considering the testimony of PW.3 and the nature of the injuries suffered by the claimant, its effect on his functionality, has assessed the functional disability at 8%. This conclusion by the Tribunal as regards disability at 8% cannot be found fault with. The conclusion of the Tribunal in respect of disability are well founded and it has taken into consideration the avocation of the claimant also. Paragraph Nos.25, 26 and 27 would show that the Tribunal has considered these aspects in length.

18. In the result, the quantum of the compensation as determined by the Tribunal is in accordance with the provisions of Section 163-A of the Motor Vehicles Act and the argument of the learned counsel for the appellant-Corporation cannot be accepted.

19. It is worth to note that the Tribunal has awarded interest at 9% per annum which is not



sustainable. Therefore, the rate of interest has to be reduced to 6% p.a.

20. In the result, the appeal deserves to be allowed in part. Hence, the following:

ORDER

- i. The appeal is ***allowed-in-part***.
- ii. The quantum of the compensation determined by the Tribunal is affirmed.
- iii. The rate of interest awarded by the Tribunal at 9% is modified and the respondent herein is entitled for the interest of 6% per annum only.
- iv. Rest of the order passed by the Tribunal remained undisturbed.
- v. The amount in deposit before this Court is ordered to be transmitted to the Tribunal.

SD/-
(C M JOSHI)
JUDGE