



NC: 2026:KHC:54203
MFA No. 5011 of 2015

CNR: KAHC010522992015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.5011 OF 2015(MV-I)

BETWEEN:

MR DEERAJ KUMAR
S/O KUNNILAL DAS
AGED ABOUT 27 YEARS
R/O BELAMUSARAYA HOUSE,
THIRUVA TASIL, JADEPURABA
KANNOJ DISTRICT
UTTAR PRADESH STATE
NOW RESIDING AT
C/O ROBERT ANIL KUMAR
M/S RUCHI (NON VEG) HOTEL
APMC ROAD, PUTTUR TALUK
D.K. DISTRICT - 574 201.

...APPELLANT

[BY SRI MANOJ K., ADVOCATE (PH) FOR
SRI HAREESH BHANDARY T., ADVOCATE]

AND:

1. SMT.HEMAVATHI
AGED ABOUT 54 YEARS
W/O MONAPPA GOWDA
R/O SHANTHI NILAYA HOUSE,
SAVANOOR, SAVANOOR VILLAGE,
PUTTUR TALUK,
D.K. DISTRICT - 574 201.
2. THE BRANCH MANAGER
THE UNITED INDIA
INSURANCE CO. LTD.,
HEAD POST OFFICE ROAD,
HUNASOORU CLUB COMPLEX,

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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MYSORE DISTRICT - 571 105
TEL-08222 252277 POLICY
NO.070602/31/12/02/0000350011

3. SRI SRINIVAS
S/O CHELUVA SHETTY
R/O BYADARAHALLY DELETED V/C/O DATED 25.11.2019
R.P.COLONY, HUNASURU
MYSORE DISTRICT - 571 105.

...RESPONDENTS

[BY SRI SHASHIDHAR K N., ADVOCATE FOR R1;
SRI JWALA KUMAR, ADVOCATE FOR R2 (PH);
V/C/O DATED 25.11.2019 R3 IS DELETED]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 27.08.2014 PASSED IN MVC
NO.452/2013 ON THE FILE OF THE V ADDITIONAL DISTRICT
AND SESSIONS JUDGE AND MEMBER, ADDITIONAL MACT, D.K.
MANGALORE, SITTING AT PUTTUR, D.K, 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



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ORAL JUDGMENT

Challenging judgment and award dated 27.08.2014 passed by V Addl. District and Sessions Judge & Member, Addl. MACT, D.K., Mangalore, (sitting at Puttur) D.K., ('**Tribunal**') in MVC no.452/2013, this appeal is filed.

2. Sri Manoj K., learned counsel appearing for Sri Hareesh Bhandary T, advocate for appellant submitted that appeal was by claimant for enhancement of compensation.

3. Brief facts leading to this appeal as stated are that at 9:15 a.m. on 12.10.2012, when claimant was riding his bicycle at Purusharakatte of Narimogaru village, near Puttur, driver of Tempo Trax no.KA-19/A-3797 drove it in rash and negligent manner and dashed against bicycle causing accident. Due to same claimant sustained grievous injuries and despite treatment sustained loss of earning capacity. Therefore, he filed claim petition in MVC no.452/2013 under Section 166 of Motor Vehicles Act, 1988 ('**MV Act**') against owner, insurer and RC owner of vehicle.



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4. Claim petition was opposed on all grounds, Tribunal framed issues and recorded evidence.

5. Claimant examined himself and three others including Dr.BJP Shetty as PWs.1 to 4 and got marked Exs.P1 to P24. Insurer did not lead oral evidence, but got marked copy of insurance policy with consent as Ex.R1.

6. On consideration, Tribunal held accident had occurred due to rash and negligent driving of Tempo Trax by its driver, claimant had sustained disability and loss of earning capacity and was entitled for compensation from insurer assessed by it at Rs.3,95,000/- with interest at 6% per annum. Dissatisfied with quantum, claimant was in appeal.

7. It was submitted that as on date of accident, claimant was 25 years of age working as helper and earning Rs.15,000/- per month. And Tribunal erred in taking his monthly income at only Rs.5,000/-. It was submitted that in accident, claimant sustained fracture of left femur and pubic rami. PW.2 examined claimant and assessed limb disability of 51.62%. Tribunal considered loss of earning capacity at 25%



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and applied multiplier of '18'. It was submitted that there was no dispute about multiplier or extent of disability. But despite claimant sustaining two grievous fractures, award of only Rs.20,000/- towards pain and suffering; Rs.20,000/- towards loss of amenities; Rs.75,000/- towards medical and other incident expenses and only Rs.10,000/- towards future medical expenses was grossly inadequate. It was submitted that Tribunal has not awarded any compensation towards loss of income during laid up period. On above grounds sought for enhancement.

8. On other hand, Sri Jwala Kumar, learned counsel appearing for respondent no.2 - insurer opposed appeal. It was submitted that Tribunal had assessed compensation under various heads by referring to material on record and same was just and proper and sought for dismissal.

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

10. From above and since only claimant is in appeal, point that arises for consideration is:



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

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

i) Though claimant stated that as on date of accident,
he was 25 years of age working as helper and
earning Rs.15,000/- per month. Same was not
substantiated with any specific evidence. In
absence, Tribunal assessed it notionally. But
notional income for year 2012 being Rs.7,000/-, it
erred in taking it at Rs.5,000/-. Since there is no
dispute about disability of 25% and multiplier of
'18', compensation towards future loss of income
would require reassessment as follows i.e.
$$\text{Rs.7,000/-} \times 25\% \times 12 \times 18 = \text{Rs.3,78,000/-}.$$

ii) As per treatment records, claimant sustained
fractures of left femur and pubic rami. Since
claimant has sustained fracture of structural bone
along with additional fracture, he would be entitled
for compensation of Rs.40,000/- + Rs.10,000/- i.e.



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Rs.50,000/- towards pain and suffering. But, Tribunal erred in awarding only Rs.20,000/-.

iii) Normally fractures take about 3 months to heal. At Rs.7,000/- per month, claimant would be entitled to **Rs.21,000/-** towards loss of income during laid up period.

iv) Though claimant has sought enhancement of compensation towards medical and other incidental expenses, medical bills produced are for about Rs.65,000/-. Claimant has taken inpatient treatment for a period of 19 days. Tribunal has awarded ☐ **Rs.75,000/-**, including Rs.10,000/- towards incidental expenses, which appear just and proper.

v) PW.2 has stated that fracture of femur had united, there was malunion fracture of pubic rami. Under above circumstances award of **Rs.20,000** towards loss of amenities would also appear justified. In



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view of above, claimant would be entitled for total compensation of **Rs.5,44,000-/-**.

12. Consequently, following:

ORDER

- a) Appeal is **allowed**, claimant is entitled to reassessed compensation of **Rs.5,44,000/-** as against Rs.3,95,000/- awarded by Tribunal.
- b) Same shall carry interest at 6% per annum from date of claim petition till deposit, excluding delayed period of 219 days in filing appeal.
- c) Respondent no.2 - Insurer is directed to deposit reassessed compensation with interest before Tribunal within 6 weeks.
- d) On deposit, entire compensation is ordered to be released in favour of claimant.

Sd/-
(RAVI V HOSMANI)
JUDGE

GRD
List No.: 1 Sl No.: 15