IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4th DAY OF MARCH, 2020

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

M.F.A.NO.6920/2014 (MV)

**BETWEEN:**

Rakesh R.,
S/o Kalegowda
Aged about 23 years
R/at No.2, Kanakanagar
Manjunath Layout
2nd Main, Jaraganahalli
J.P.Nagar, Benglauru-560 078.

...Appellant

(By Sri Shripad V. Shastri, Advocate)

**AND:**

1. The Manager
   United India Insurance Co. Ltd.,
   5th and 6th Floor,
   Krushi Bhavan Building,
   Hudson Circle, Bengaluru-1.

2. Mr. Prathap
   S/o late Nagaraj Shetty
   Mahadeshwara Oil Mill
   Santhe Kodihalli Village
   Kanakapura Taluk
   Ramanagar District-581 453.

...Respondents

(By Sri B.C.Shivanne Gowda, Advocate for
Sri A.M.Venkatesh, Advocate for R1;
R2-Notice is dispensed with as per the Order
dated 22.1.2015)

This MFA is filed under Section 173(1) of MV Act, against the judgment and award dated 26.8.2014 passed in MVC No.4331/2013 on the file of the Member, Principal MACT, Bengaluru, dismissing the claim petition for compensation as not maintainable.

This MFA coming on for Admission this day, the Court delivered the following:

**JUDGMENT**

The appellant is before this Court seeking for enhancement of compensation as rendered by the Principal MACT, Bangalore, in MVC No.4331/2013 by its judgment dated 26.8.2014.

2. The appellant has filed a claim petition stating that on 1.5.2013 at about 8.30 a.m. when appellant's friend was proceeding on a motorcycle bearing registration No.KA.05/HV.8255 as a pillion rider, when they came near T.Bekuppe Village, one Mini Bus bearing registration No.KA.05/D.9816 came in a rash and negligent manner from Kodihalli side proceeding towards T.Bekuppe Village on the wrong side and dashed to the motorcycle. As a result of which both driver and pillion rider fell down and sustained injuries and the motorcycle was completely damaged.

3. The appellant is the owner of the said motorcycle. He claimed for compensation on account of the damage caused to the motorcycle. In this regard, Ex.P13 being an estimation of repair and repair charges for a sum of Rs.54,616/- was produced. The tribunal rejected the said claim on the ground that it is only estimation and the appellant had not produced any document to show that the said amount was incurred as expenses.

4. The appellant is before this Court stating that, the tribunal ought not to have rejected the entire claim, but on the basis of the estimation ought to have awarded some reasonable amount. Since the occurrence of the accident is not in dispute, owner of the vehicle is not in dispute and in connected matter the injured had suffered grievous injury in terms of fracture of the femur bone, the accident being between the motorcycle and a mini bus, the tribunal ought to have appreciated that damages are caused and should have awarded some reasonable amount.

5. Learned counsel for the respondent however opposes the claim saying that contract of insurance is one

of indemnity and if the claimants had not produced any details as regards loss suffered to the vehicle, no amount could be awarded.

6. Heard the learned counsel for the appellant and the respondent. Perused the case papers.

7. The fact of occurrence of the accident, injuries suffered, damage to the motorcycle are not in dispute. The only issue in dispute is the extent of damage to the motorcycle. Though an estimation has been produced, the actual invoice and payment details had not been produced. In view of peculiar facts and circumstances of the case, instead of the matter being remanded and being pending for a long period of time, in the interest of justice and to bring closure to the matter, I am of the considered opinion that if a sum of Rs.15,000/- is awarded as compensation, the same would serve the interest of justice. The counsel for the appellant is aggreeable for the same.

8. Accordingly, the appeal is ***disposed of***. Compensation of Rs.15,000/- is awarded with interest at 6% per annum from the date of petition till its realization.

**Sd/-**
**JUDGE**

*AP/-