NC: 2024:KHC-K:10217
MFA No. 201323 of 2021

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 19TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

MISCL. FIRST APPEAL NO. 201323 OF 2021 (MV-I)

BETWEEN:

1. ANASUYA @ ANUSUYA BAI
   W/O SHARNAPPA
   AGE 32 YEARS, OCCU. LABOUR
   NOW AT R/O SHIV NAGAR
   NORTH BIDAR, TQ AND DIST BIDAR

…APPELLANT

(BY SRI. SANDEEP VIJAYKUMAR, ADVOCATE)

AND:

1. THE DIVISIONAL CONTROLLER
   NEKRTC BIDAR DIVISION
   BIDAR-585 401.

…RESPONDENT

Digitally signed by
AL BHAGYA
Location: HIGH
COURT OF
KARNATKA

(BY SRI. SHARANABASAPPA M. PATIL, ADVOCATE)

THIS MFA IS FILED U/S. 173(1) OF MV ACT, PRAYING TO CALL FOR THE RECORDS IN MVC NO. 629/2017 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE AND ADDL. MACT AT BIDAR, TO MODIFY THE JUDGMENT AND AWARD DATED 01.04.2019 PASSED IN MVC NO. 629/2017 ON THE FILE COURT OF THE ADDITIONAL SENIOR CIVIL JUDGE AND ADDL MACT AT BIDAR AND ETC.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM)

This appeal is by the injured questioning the quantum determined by the Tribunal in MVC.No.629/2017. Appeal is purely on quantum since respondent/Corporation admits its liability.

2. Appellant/claimant while proceeding in a Thoofan vehicle sustained grievous injuries on account of rash and negligent driving of the driver of the offending bus which came from a opposite direction and dashed against the jeep. In the said accident, claimant sustained fracture of right femur and tibia. The claimant has asserted that he was earning Rs.15,000/- per month. Tribunal in absence of income proof, notionally assessed the income at Rs.6,000/- and awarded Rs.2,37,313/- with interest at the rate of 9% p.a. from the date of petition till its realization.

3. This Court has independently assessed the medical evidence let in by the appellant, more particularly,

the doctor's evidence coupled with the disability certificate. Though, Tribunal was justified in assessing the disability at 11%, the notional income assessed at Rs.6,000/- is on the lower side. By taking note of the date of accident, this Court is inclined to place reliance on the income chart prepared by the KSLSA and accordingly, the income is assessed notionally at Rs.10,250/-. Assessing the disability at 11% and applying the multiplier of 17, compensation re-determined under the head of loss of earnings on account of disability works out to (Rs.1,127.5x12x17)=Rs.2,30,010/-. Rs.36,673/- awarded towards medical expenses is retained. Having regard to the period of treatment, loss of earnings during the treatment period is awarded for three months, which works out to Rs.30,750/-. Under the head of pain and suffering and loss of amenities Rs.30,000/- each is awarded. Towards future medical expenses, having regard to the nature of the injuries sustained, Rs.30,000/- is awarded.

4. In summary, the total compensation re-determined by this Court under various heads is as follows:

Sl. No.	Heads	Amount
1.	**Pain and suffering**	**Rs. 30,000/-**
2.	**Future loss of earnings**	**Rs.2,30,010/-**
3.	**Medical expenses**	**Rs. 36,673/-**
4.	**Laid up period (10,250x3)**	**Rs. 30,750/-**
5.	**Loss of amenities**	**Rs. 30,000/-**
6.	**Future medical expenses**	**Rs. 30,000/-**
	Total	**Rs.3,87,433/-**

The total compensation re-determined by this Court works out to Rs.3,87,433/- as against Rs.2,37,313/- awarded by the Tribunal. The appellant is held entitled to enhanced compensation of Rs.1,50,120/- with interest at the rate of 6% per annum from the date of petition till its realization.

11. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

(i) *The appeal is allowed-in-part;*

(ii) The judgment and award passed by the Tribunal in MVC.No.629/2017 is modified;

(iii) The appellant is held entitled to enhanced compensation of Rs. 1,50,120/- *which shall carry interest at the rate of 6% from the date of petition till realization;*

(v) On deposit, entire amount shall be released to the claimant;

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

ALB
List No.: 1