NC: 2025:KHC:52939
MFA No. 7948 of 2015

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO. 7948 OF 2015 (MV-I)

BETWEEN:

C. RAMACHANDRA,
S/O LATE T. CHANNAIAHSHETTY,
AGED ABOUT 58 YEARS,
R/O D.NO. 57/3, 8TH CROSS,
CHAMUNDESHWARI NAGAR,
MANDYA CITY – 571 401.

…APPELLANT

(BY SRI. K.L.SREENIVAS, ADVOCATE)

AND:

1. SUBHASH GOUSH,
   S/O LATE BHOLANATH GHOUSH,
   AGE MAJOR,
   R/O DALUIBAZAR VILLAGE,
   RASULAPUR P.O.
   MEMARI BURDWAN DISTRICT
   WEST BENGAL – 713 121.

2. THE NATIONAL INSURANCE CO. LTD.,
   R/BY THE BRANCH MANAGER,
   BRANCH OFFICE 1576,
   V.V ROAD, MANDYA – 571 401.

…RESPONDENTS

(BY MS. MAMATHA S. SHANKAR, ADVOCATE FOR
SMT. E.I. SANMATHI, ADVOCATE FOR R2;
VIDE ORDER DATED 09.07.2019, NOTICE TO R1 IS
DISPENDED WITH)

Digitally Signed by REKHA R
Location : High Court of Karnataka

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 25.06.2015 PASSED IN MVC NO.150/2012 ON THE FILE OF THE 2ND ADDITIONAL SENIOR CIVIL JUDGE & ADDITIONAL MACT, MANDYA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

This appeal is by claimant seeking for enhancement of compensation arising out of judgment and award dated 25.06.2015 in MVC.No.150/2012 passed by the II Additional Senior Civil Judge and Additional MACT, Mandya, ('Tribunal' for short).

2. The date of accident, injury suffered and liability to pay the compensation are not in dispute. The only dispute is with regard to quantum of compensation.

3. Heard K.L.Sreenivas, learned counsel appearing for the appellant and Ms.Mamatha S.Shankar, learned

counsel for Sri.E.I.Sanmathi, learned counsel for respondent No.2. Vide order dated 09.07.2019, notice to respondent No.1 is dispensed with.

4. Sri. K.L.Sreenivas, with all vehemence submits that the claimant was aged 55 years as on the date of accident, he was working as LIC and RTO agent earlier to the accident, so also an agriculturist and earning Rs.10,000/- per month. In the accident he has suffered injuries including fracture and hearing impairment with left ear to the tune of 83% and disability due to the fracture at 20% to the particular upper limb. The Tribunal has awarded meager compensation under all heads except under the 'medical expenses'. Due to the injuries, he was inpatient for a period of 20 days and has taken treatment in various hospitals including NIMHANS. Though the Tribunal has considered the disability, but only with respect to limb disability, however not considered the disability suffered to the left ear.

5. He further submits that, considering the avocation of the claimant, the disability suffered both to the ear that is loss of hearing capacity at 83% and particular limb disability at 20% award appropriate compensation under all the heads except medical expenses stated supra. With this learned counsel sought to allow the appeal and enhance the compensation.

6. Refuting the submissions of Sri.K.L.Sreenivas, Ms.Mamatha, supporting the Judgment and award by the Tribunal with all vehemence submits that the Tribunal considering the injuries suffered and the disability resulted, awarded appropriate compensation under all the heads. A perusal of compensation awarded under each head by the Tribunal does not warrant any interference and accordingly, sought to dismiss the appeal.

7. Having considered the submissions of learned counsel for the parties, perused entire appeal papers as well as trial Court record.

8. As per the medical evidence on record, the appellant has sustained disability at the rate of 20% to the particular limb that is upper limb and loss of hearing with the left ear at the rate of 83%. The PW.3 – Doctor, in the cross-examination is firm with his evidence regarding loss of hearing capacity and stated that the inability cannot be cured by treatment. Considering the medical evidence and the injuries suffered and the disability resulted, the compensation awarded by the Tribunal under each head, except medical expenses requires re-consideration.

9. Though the loss of hearing capacity at the rate of 83% with the left ear, may not impair the earning capacity, but the same has affected the normal life and comfort of the claimant. The limb disability however considered at 10% instead of 7% to the whole body.

10. The Tribunal has considered the income at Rs.4,500/- per month. However, as per the chart prepared by the Karnataka State Legal Services Authority the

income for the year 2011 is at Rs.6,500/- per month. In these circumstances the compensation awarded under various heads requires re-assessment and re-determination. Accordingly, on re-determination the claimant is entitled for compensation under the following heads:

Sl. No.	**Heads**	**Compensation awarded by the Tribunal In Rs.**	**By this Court In Rs.**
1.	Towards Pain and Suffering (for fracture and earring impairment)	50,000-00	1,00,000-00
2.	Towards medical expenses	4,500-00	4,500-00
3.	Towards attendant conveyance, nourishment and also towards incidental expenses	25,000-00	40,000-00
4.	Towards loss of income during treatment and rest (6,500 X 4)	18,000-00	28,000-00
5.	Towards loss of future income due to permanent disability	48,000-00	85,800-00 (6,500x12x11x10%)
6.	Towards physical discomfort, inconvenience, frustration affecting future amenities in the life (for loss of hearing at 83% with the left Ear)	15,000-00	50,000-00
7.	Towards future medical expenses	15,000-00	15,000-00
	TOTAL	**1,75,500-00**	**3,23,300-00**

11. On re-determination, the claimant is entitled for additional compensation of ***Rs.1,47,800/-*** (Rs.3,23,300-Rs.1,75,500) which shall carry interest at the rate of 6% p.a., from the date of petition till its realization.

12. For the following reasons, the Court proceeds to pass the following:

ORDER

i) The appeal is ***allowed-in-part.***

ii) The judgment and award dated 25.06.2015 in MVC.No.150/2012, passed by II Additional Senior Civil Judge and Additional MACT, Mandya, is hereby modified.

iii) The appellant – claimant is entitled for an additional compensation of ***Rs.1,47,800/-*** (Rs.3,23,300-Rs.1,75,500) along with interest at 6% per annum from the date of the petition till realization.

iv) The respondent No.2/insurer shall deposit the enhanced compensation along with accrued

interest within six weeks from the date of receipt of copy of this order.

v) Upon deposit, the entire amount shall be released in favor of the claimant-appellant on proper identification.

vi) Registry to transmit TCR to the concerned Tribunal forthwith.

Sd/-
(T.M.NADAF)
JUDGE

PK
List No.: 1 Sl No.: 16
Ct-vn