NC: 2026:KHC:21634
M.F.A. No.7423/2018

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.7423/2018 (MV-I)

BETWEEN:

SRI. MAHESHA
S/O CHANDRAHASA @ PAPANNA
AGED ABOUT 25 YEARS
R/AT KANDEGALA VILLAGE
MALAVALLI TALUK
MANDYA DISTRICT.

...APPELLANT

Digitally signed by RUPA V
Location: HIGH COURT OF KARNATAKA

(BY SMT. ANUSHA, ADV., FOR
SMT. SUGUNA R. REDDY, ADV.,)

AND:

1. SRI. SUBBEGOWDA .D
S/O JAVARAYI GOWDA
MAJOR IN AGE
R/AT KANDEGALA VILLAGE
MALAVALLI TQ
MANDYA DISTRICT.

2. THE BRANCH MANAGER
NATIONAL INSURANCE CO LTD
BRANCH OFFICE, V.V. ROAD
MANDYA.

...RESPONDENTS

(BY SRI. A.N. KRISHNASWAMY, ADV., FOR R2
R1 SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 29/01/2016, PASSED IN MVC NO.1447/2014, ON THE FILE OF THE SENIOR CIVIL JUDGE AND MACT, MALAVALLI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL JUDGMENT

This appeal is filed by the injured/claimant seeking enhancement of compensation being aggrieved by the judgment and award dated 29.01.2016 passed in MVC.No.1447/2014 by the Senior Civil Judge and MACT, Malavalli, (for short, 'Tribunal').

2. Smt.Anusha, learned counsel for Smt.Suguna R.Reddy, learned counsel for the appellant submits that this appeal is filed seeking for higher compensation mainly on the ground that the assessment of the income as well as the disability by the Tribunal is on the lower side. It is contented that the Tribunal has not awarded any compensation under the head of loss of income during the

laid up period and loss of amenities. It is also contented that the award of compensation by the Tribunal under other heads is also on the lower side, hence, seeks to allow the appeal.

3. Sri.A.N.Krishnaswamy, learned counsel for the respondent-Insurance Company defends the judgment and award of the Tribunal and submits that no proof of income is produced. It is submitted that the Tribunal considering the doctor's evidence has rightly assessed the disability and awarded with just compensation and there is no scope for enhancement, hence, seeks to dismiss the appeal.

4. I have heard the arguments of the learned counsel appearing on both the sides and meticulously perused the material available on record.

5. It is to be noticed that the appellant met with a road accident on 28.09.2014 and sustained fracture of right leg tibia and fibula and got operated on 04.10.2014, got inserted rod, plate and screws and he was discharged

from the hospital on 08.10.2014 with an advice for follow-up treatment. The appellant-injured examined himself as PW1 and examined Dr.Sujana Teja J.S., as CW1 and got marked Exs.P1 to P42. The perusal of the oral evidence of the appellant-claimant indicates that he has failed to produce any evidence with regard to the income. Hence his income is notionally re-assessed at Rs.8,500/- placing reliance on the notional income chart prepared by the KSLSA. The evidence of CW1 Doctor indicates that he has assessed the disability to the extent of 28.4% to the right leg. Considering the said aspect and taking note of the injuries suffered and treatment provided, the disability of the appellant-injured is re-assessed at 10% to the whole body. Hence, the appellant is entitled to compensation under the head of loss of future income due to disability as under:

Rs.8,500 X 12 X 18 X 10% = ***Rs.1,83,600/-.***

6. Admittedly, the Tribunal has not awarded any compensation under the head of loss of amenities and loss of income during the laid up period, I am of the considered view that the appellant is entitled to compensation under the aforesaid heads and the compensation under other heads is also required to be re-assessed appropriately.

7. Hence, the appellant would be entitled to compensation of ***Rs.35,000/-*** towards pain & suffering; ***Rs.15,000/-*** towards food, nourishment, conveyance and attendant charges; ***Rs.35,000/-*** towards loss of amenities in life. The appellant would be entitled to ***Rs.25,500/-*** (Rs.8,500 X 3) towards the loss of income during laid-up period. The compensation awarded by the Tribunal towards medical expenses and future medical expenses is unaltered.

8. Thus, the appellant would be entitled to modified compensation as under:

HEADS	AMOUNT (in Rs.)
Pain & suffering	35,000
Medical expenses	45,000
Food, nourishment, conveyance and attendant charges	15,000
Future medical expenses	10,000
Loss of future income due to disability	1,83,600
Loss of amenities	35,000
Loss of income during laid up period	25,500
Total	**3,49,100**

Thus, the appellant-claimant shall be entitled to a total compensation of **Rs.3,49,100/-** as against Rs.2,11,640/- awarded by the Tribunal.

9. In the result, this Court proceeds to pass the following:

ORDER

a) Appeal is ***allowed in part***.

b) The impugned judgment and award of the Tribunal is modified to an extent that the appellant-claimant would be entitled to a total compensation of **Rs.3,49,100/-** as against Rs.2,11,640/- awarded by the Tribunal.

c) The enhanced compensation amount shall carry interest at the rate of 6% per annum from the date of petition till the date of payment excluding the interest for the delayed period of 861 days as per the order dated 01.08.2022.

d) The Insurance Company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of six weeks from the date of receipt of certified copy of this judgment.

e) The entire compensation amount shall be released in favour of the appellant-claimant.

f) Draw modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

BSR
List No.: 1 Sl No.: 17