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.3766/2020 (MV-I)

BETWEEN:

SRI.SHAMANNA .H
S/O LATE HANUMANTHAPPA
AGED ABOUT 60 YEARS
R/O PALASANDRA LAYOUT
7TH CROSS, BEHIND COURT COMPLEX
KOLAR TOWN, KOLAR-563101.

Digitally signed by RUPA V
Location: HIGH COURT OF KARNATAKA

...APPELLANT

(BY SRI. VISHWANATHA K, ADV.,)

AND:

1. MR. SRINIVASA .N
   S/O GOVINDAPPA
   MAJOR IN AGE
   R/O NALLUR VILLAGE
   HANUMANAHALLI POST
   MULBAGAL TALUK
   KOLAR DISTRICT-563131.

2. TATA AIG GENERAL INSURANCE CO. LTD
   NO.69, 3RD FLOOR, J.P. AND DEVI
   JAMBUKESHWAR ARCADE
   MILLERS ROAD, NEAR CHANDRIKA HOTEL
   VASANTH NAGAR, BANGALORE-560052.

...RESPONDENTS

(BY SRI. Y.P. VENKATAPATHI, ADV., FOR R2
V/O/DTD:28.11.2022, NOTICE TO R1 D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 29.08.2019 PASSED IN MVC NO.698/2017 ON THE FILE OF THE II ADDITIONAL JUDGE AND XXVIII ACMM, M.A.C.T., COURT OF SMALL CAUSES, BENGALURU (SCCH-13), 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 VIJAYKUMAR A. PATIL

ORAL JUDGMENT

This appeal is filed by the injured appellant challenging the judgment and award dated 29.08.2019 passed in MVC.No.698/2017 by the II Additional Judge & XXVIII ACMM, Court of Small Causes and MACT, Bengaluru (SCCH-13) (for short 'the Tribunal').

2. Though this appeal is listed for admission, with the consent of the learned counsel for the parties, it is taken up for final disposal.

3. Sri.Vishwanatha K., learned counsel appearing for the appellant submits that this appeal has been filed by the injured claimant mainly on the ground that the

Tribunal erred in assessing both the income and disability, contrary to the oral evidence of the injured appellant as well as the doctor. It is submitted that the doctor assessed the disability at 46% to the whole body; however, the Tribunal without any justifiable reason assessed the disability at 15%. It is further submitted that the Tribunal has not awarded any compensation under the head of loss of income during the laid-up period. Hence, he seeks to allow the appeal.

4. Per contra, Sri.Y.P.Venkatapathi, learned counsel appearing for respondent No.2 supports the impugned judgment and award of the Tribunal, contending that the same is just and proper. Hence, he seeks to dismiss the appeal.

5. I have heard the arguments on both the sides and meticulously perused the material available on record.

6. The appellant and the respondent are not in dispute that the appellant met with a road accident on

15.06.2015 and sustained the following fractures as is evident from Ex.P6, the wound certificate and Ex.P7, the discharge summary.

> *"Fracture of left clavicle, cut lacerated wound 5 x 5 cm., over left forehead exposing frontal bone, left eye periorbital edema, cut lacerated wound of 8 x 2 cm., over left cheek, fracture of left forearm, fracture of left lower limb."*

7. The appellant was an inpatient at R.L.Jalappa Hospital and Research Centre, Kolar from 15.06.2015 to 13.07.2015 i.e., for a period of 29 days. It is to be noticed that PW2 has clearly admitted that the fractures have united and that he examined the appellant on 18.01.2019 and based on such examination, he has deposed before the Tribunal. It is also to be noticed that the accident occurred in June 2015, whereas the doctor examined the injured appellant in January 2019, indicating a substantial gap between the date of accident and the date of examination. The examination of PW2 and the assessment of disability are based on the physical examination of the

appellant as well as the medical documents placed before him. On such basis, PW2 has opined that the appellant has suffered 46% disability to the whole body. However, in my considered view, such assessment is not supported by cogent reasons and the same has been made without following the appropriate guidelines. Taking note of the injuries sustained, treatment provided and the surgery undergone, I am of the considered view that it would be appropriate to assess the disability at 20% to the whole body. The income of the injured appellant is reassessed at Rs.9,000/- per month by placing reliance on the notional income chart prepared by the KSLSA. It is not in dispute that the claimant was aged about 58 years at the time of the accident; hence, the appropriate multiplier would be 9, which has been rightly considered by the Tribunal. Having reassessed the income and disability of the appellant/claimant, the appellant/claimant is entitled to compensation under the head of ***loss of future income due to disability*** as under:

9,000/- x 12 x 9 x 20% = ***Rs.1,94,400/-***

8. The award of compensation by the Tribunal under the heads of pain and suffering, medical expenses and food, nourishment, attendant charges & conveyance remains unaltered. However, taking note of the oral and documentary evidence, I am of the considered view that the compensation awarded by the Tribunal under other heads is required to be reassessed by appropriately enhancing the same. The appellant is entitled to the modified compensation as under:

HEADS	**AMOUNT (in Rs.)**
Pain & suffering	50,000
Loss of amenities	50,000
Medical expenses	1,87,204
Loss of income during laid-up period (Rs.9,000 X 4)	36,000
Loss of future income due to disability	1,94,400
Towards conveyance, attendant charges, food and nourishment	40,000
Total	**5,57,604**

Thus, the appellant-claimant shall be entitled to total compensation of ***Rs.*5,57,604/-** as against Rs.4,46,804/- awarded by the Tribunal.

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

ORDER

a) Appeal stands ***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 total compensation of ***Rs.*5,57,604/-** as against Rs.4,46,804/- awarded by the Tribunal.

c) The compensation amount shall carry interest at the rate of 6% per annum from the date of petition till the date of payment.

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) On such deposit, the Tribunal shall release the entire enhanced compensation amount in favour of the appellant.

f) The Registry is directed to transmit the records to the Tribunal forthwith.

g) Draw modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 13