NC: 2026:KHC:23728
M.F.A. No.3275/2019

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.3275/2019 (MV-I)

BETWEEN:

G.C. SANTHOSHKUMAR
S/O CHANDRASHEKAR
AGED ABOUT 33 YEARS
R/AT OPPOSITE TO
SEETHARAMANJANEYA RICE MILL
GUTHALU, MANDYA CITY.

...APPELLANT

(BY SMT. BHUSHANI KUMAR, ADV.,)

Digitally signed by RUPA V
Location: HIGH COURT OF KARNATAKA

AND:

THE GENERAL MANAGER CUM OWNER
OF KSRTC BUS BEARING
NO. KA-09-F-4022
AND INTERNATIONAL INSURANCE
CO, LTD., K.S.R.T.C.
K.H.DOUBLE ROAD, SHANTHINAGARA
BENGALURU
HAVING DIVISION OFFICE AT MANDYA
K.S.R.T.C. BUS DEPOT, M.C.ROAD
MANDYA.

...RESPONDENT

(BY SRI. K. NAGARAJA, ADV.,)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:30.06.2018 PASSED IN MVC NO.933/2012 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND 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 VIJAYKUMAR A. PATIL

ORAL JUDGMENT

This appeal is filed by the injured appellant challenging the judgment and award dated 30.06.2018 passed in MVC.No.933/2012 by the II Additional Senior Civil Judge and MACT, Mandya (for short 'the Tribunal').

2. Smt.Bhushani Kumar, learned counsel appearing for the appellant submits that the Tribunal committed a grave error in ignoring the oral and documentary evidence on record. It is submitted that CW1 clearly deposed before the Tribunal that the appellant sustained a head injury, left black eye and other injuries. CW1 further deposed that the hearing capacity of the appellant's right ear was reduced by 70% and assessed the disability at 40% to the entire body. However, without assigning any justifiable reason, the Tribunal assessed the

disability at only 7% and awarded meager compensation under all other heads. Hence, she seeks to allow the appeal.

3. Per contra, Sri.K.Nagaraja, learned counsel appearing for the respondent/Corporation supports the impugned judgment and award of Tribunal and submits that CW1, being a neurologist, has no competence to speak with regard to the hearing difficulty faced by the appellant. Therefore, the Tribunal has rightly assessed the disability and awarded just compensation and there is no scope for enhancement. Hence, he seeks to dismiss the appeal.

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

5. The material on record indicates that the appellant met with a road accident on 11.04.2012, which occurred due to the actionable negligence of the driver of the respondent's bus thereby fastening liability on the

respondent/Corporation to pay compensation. The records further indicate that the appellant was provided treatment at District Hospital, Mandya, NIMHANS Hospital at Bengaluru and Apollo BGS Hospital at Mysore. The evidence of CW1, the wound certificate and other medical records indicate that the appellant sustained the following fractures and injuries:

> *"a) Severe head injury.*
> *b) left anterior cranial fossa fracture.*
> *c) fracture of posterior wall of frontal sinus.*
> *d) Left black eye."*

6. The records indicate that the appellant was treated as an inpatient from 12.04.2012 to 18.04.2012 for a period of 8 days. As per the evidence of CW1, he is of the opinion that the appellant has lost hearing capacity of the right ear to the extent of 70% and considering the head injuries, the disability has been assessed at 40% to the whole body. In my considered view, the Tribunal without any justifiable reason concluded that the disability was only 7%. It is not in dispute that CW1 is a neurosurgeon and he would have spoken only with regard

to the head injuries sustained by the appellant. It is to be noticed that CW1, being a senior doctor has opined that the head injury resulted in a reduction of hearing capacity to the extent of 70% and, on that basis, assessed the whole body disability at 40%. In my considered view, the same is required to be accepted in the absence of any contrary evidence before the Court. Having reassessed the disability at 40%, I am of the view that the income assessed by the Tribunal at Rs.7,500/- per month is appropriate as the injured claimed that he was working as an auto driver, which is substantiated by the production of a valid driving licence. It is not in dispute that the claimant was aged about 24 years at the time of the accident; hence, the appropriate multiplier would be 18, which has been rightly considered by the Tribunal. Having reassessed the 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:

7,500/- x 12 x 18 x 40% = ***Rs.6,48,000/-***

7. The award of compensation by the Tribunal under the heads of medical expenses & future medical expenses and loss of income during laid-up period remains unaltered. However, having reassessed the disability and taking note of the oral evidence of CW1 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	40,000
Loss of amenities	40,000
Medical expenses and Future medical expenses	1,24,322
Loss of income during laid-up period (Rs.7,500 X 3)	22,500
Loss of future income due to disability	6,48,000
Towards conveyance, attendant charges, food and nourishment	20,000
Total	**8,94,822**

Thus, the appellant-claimant shall be entitled to total compensation of ***Rs.*8,94,822/-** as against Rs.3,16,022/- awarded by the Tribunal.

8. 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.*8,94,822/-** as against Rs.3,16,022/- 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 151 days as per the order dated 22.08.2023.

d) The respondent/Corporation 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 apportionment, deposit and disbursement shall be made as per the award of the Tribunal.

f) Draw modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 20