NC: 2026:KHC:22935
M.F.A. No.1143/2019

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.1143/2019 (MV-I)

BETWEEN:

L.R. BASAVARAJU
S/O RUDRAPPA
AGED ABOUT 48 YEARS
R/AT NO.241
MAHADESHWARA NAGARA
HERO HALI, BANGALORE NORTH
BANGALORE-560 091.

...APPELLANT

(BY SRI. KAILAS SHANKAR P.S. ADV.,)

Digitally signed by RUPA V
Location: HIGH COURT OF KARNATAKA

AND:

1. NARASIMHA
   S/O HANUMANTHA
   NO.37, KARAGERE VILLAGE
   MYLAR PATNA POST
   NAGAMANGALA TALUK
   MANDYA DISTRICT-571 432.

2. HDFC ERGO GEN INS CO. LTD.
   NO.25, SHANKAR NARAYANA BUILDING
   M G ROAD, BANGALORE-560 001.

...RESPONDENTS

(BY SRI. H.S. LINGARAJ, ADV., FOR R2
V/O/DTD:11.02.2019 NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 28.08.2018 PASSED IN MVC NO.4905/2018 ON THE FILE OF THE MEMBER, MACT, XVIII ADDITIONAL JUDGE, COURT OF SMALL CAUSES, BENGALURU, 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/claimant seeking enhancement of compensation being aggrieved by the judgment and award dated 28.08.2018 passed in MVC.No.4905/2015 by the Member, MACT, and XVIII Additional Judge, Court of Small Causes, Bengaluru, (for short, 'Tribunal').

2. Heard Sri.P.S.Kailas Shankar, learned counsel for the appellant and Sri.H.S.Lingraj, learned counsel appearing for respondent No.2-Insurance Company.

3. The appellant is seeking higher compensation on the ground that the disability assessed by the Tribunal is on the lower side and contrary to the evidence of PW3 Doctor, who has assessed disability at 75%, and also seeking compensation under the head of loss of future

prospects at the rate of 25%. The said contention is opposed by the learned counsel for the respondent-Insurance Company and submits that the Tribunal has awarded exorbitant compensation under all the heads. Taking note of the oral and documentary evidence, the disability assessed by PW3 Doctor is on the higher side and such assessment is without any basis.

4. Having heard the learned counsel for the appellant and the learned counsel for the respondent-Insurance Company, it is noticed that the appellant met with a road accident on 04.10.2015. It is averred that the appellant was doing agriculture work and vegetable vending business and used to earn ₹15,000/- per month. The Tribunal considering the said assertion, assessed the income at ₹10,000/- per month, in my considered view, the same is correct.

5. Insofar as assessment of disability is concerned, the appellant has mainly relied on the oral evidence of PW3-Dr.Ravi H.S., who has examined the appellant on

04.02.2017 and comes to the conclusion that the disability to the right leg is about 75%. The Tribunal considering the same, assessed the disability at 30% to the whole body, in my view, the same is appropriate as the appellant has sustained the following injuries:

> *"fracture of both bones left junction of 1/3rd and 1/3rd carepandy in comminuted grade IV to partial injury and underwent surgery with ORIF C Plating right leg."*

6. The material on record indicates that the appellant was inpatient in the hospital for nearly 78 days and underwent surgery, considering the said aspect, I am of the considered view that the compensation under the head of pain and suffering, loss of amenities and future medical expenses are required to be assessed by considering oral evidence of PW3-Doctor who has examined the appellant on 04.02.2017 and is of the opinion that the fracture was yet to be united. Considering the said evidence and other evidence on record, I am of the considered view that instead of enhancing marginal sum under all the heads, ends of justice would be met if

an additional compensation of ₹75,000/- is awarded in addition to what has been awarded by the Tribunal. Accordingly, an additional compensation of ***₹75,000/-*** is awarded to the appellant-claimant along with interest at the rate of 6% per annum from the date of petition till realization in addition to what has been awarded by the Tribunal.

7. In modification of the impugned judgment and award of the Tribunal to the above extent, the appeal is ***partly allowed.*** The respondent-Insurance Company shall deposit the additional compensation of ₹***75,000/-*** with interest at 6% per annum from the date of petition till realization. On such deposit, the additional compensation amount shall be released in favour of the appellant-claimant.

Registry to draw modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

BSR/List No.: 1 Sl No.: 26