NC: 2026:KHC:23730
M.F.A. No.2270/2019

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.2270/2019 (MV-I)

BETWEEN:

SMT. MEENA B.K.
W/O NAGARAJU H.R.
AGED ABOUT 43 YEARS
R/O. MANJUNATHA NILAYA
5TH CROSS, BEHIND PETROL BUNK
VIDYANAGAR, TIPTUR - 572 201
TUMKURU DISTRICT.

...APPELLANT

(BY SRI. V.B. SIDDARAMAIAH, ADV.,)

Digitally signed by RUPA V
Location: HIGH COURT OF KARNATAKA

AND:

1. THE DIVISIONAL MANAGER
   BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD.,
   DIVISIONAL OFFICER
   GOLDEN HEIGHTS
   4TH FLOOR, 59TH C CROSS
   4TH M BLOCK, BANGALORE - 560 010
   REP. BY ITS BRANCH MANAGER
   HASSAN.

2. SRI. HANUMANTHA RAJU
   S/O KARIHANUMAIAH
   AGED ABOUT 42 YEARS
   R/O NO. 636, JANATHA COLONY
   HEGGERE POST, TUMAKURU - 572 102
   TUMAKURU DISTRICT.

...RESPONDENTS

(BY SRI. A.N. KRISHNASWAMY, ADV., FOR R1
V/O/DTD:01.09.2023, NOTICE TO R2 IS H/S)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:29.01.2019 PASSED IN MVC NO.867/2017 ON THE FILE OF THE III ADDITIONAL DISTRICT JUDGE & MACT, HASSAN, 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 appellant challenging the judgment and award dated 29.01.2019 passed in MVC.No.867/2017 by the III Additional District Judge and MACT, Hassan (for short 'the Tribunal').

2. Heard Sri.V.B.Siddaramaiah, learned counsel appearing for the appellant, Sri.A.N.Krishnaswamy, learned counsel for respondent No.1 and meticulously perused the material available on record.

3. This appeal is filed mainly on the ground that the assessment of the appellant's disability and income are

on the lower side and award of compensation under other heads is also required to be enhanced by considering the fact that the appellant sustained a chest injury and was hospitalized as an inpatient for a period of 9 days.

4. It is to be noticed that the appellant met with a road accident on 16.10.2016 and as per the claim petition she was aged about 42 years at the time of the accident, was working as a tailor and used to earn Rs.20,000/- per month. In order to prove the claim, the injured examined herself as PW1 and got marked Ex.P1 to Ex.P15 and also examined Dr. Gowrishankarswamy as CW1 and got marked Ex.C1 and Ex.C2. The Tribunal considering the oral and documentary evidence, awarded a total compensation of Rs.3,85,000/- with 6% interest per annum, directing the Insurance Company to pay the compensation amount and recover the same from the owner of the vehicle on the ground that the driver of the offending vehicle which was insured with the Insurance Company did not possess a valid and effective driving license.

5. It is also to be noticed that although the appellant claimed a monthly income of Rs.20,000/- per month, no documentary evidence was produced to substantiate the same. In the absence of proof, income of the appellant is notionally reassessed at Rs.9,500/- per month by placing reliance on the notional income chart prepared by the KSLSA. The evidence of CW1 along with wound certificate at Ex.P8 and discharge summary at Ex.P12 indicate that the appellant sustained the following injuries and fractures:

> *"i) Fracture of the Rt.Acetabulam and left distal radious.*
> *ii) Abrasions on the face.*
> *iii) Injury to the left side of the chest."*

6. Keeping in mind the aforesaid injuries and oral evidence of the CW1, I am of the considered opinion that the ends of justice would be met by reassessing the disability at 10% as against 6% as determined by the Tribunal. It is not in dispute that the claimant was aged about 42 years at the time of the accident; hence, the

appropriate multiplier would be 14, 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:

9,500/- x 12 x 14 x 10% = ***Rs.1,59,600/-***

7. It is also noticed that the Tribunal has awarded compensation of Rs.85,000/- under the head of pain and suffering; however, no compensation is awarded under the head of loss of amenities. Hence, it would be appropriate to award ***Rs.15,000/-*** under the head of ***loss of amenities*** and excess amount of compensation awarded under the head of pain and suffering can be adjusted towards the amenities.

8. The award of compensation by the Tribunal under the heads of pain and suffering, medical expenses and future medical expenses remains unaltered. However,

having reassessed the income, disability and 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	85,000
Loss of amenities	15,000
Medical expenses	1,58,280
Loss of income during laid-up period (Rs.9,500 X 3)	28,500
Loss of future income due to disability	1,59,600
Towards conveyance, attendant charges, food and nourishment	25,000
Towards Future medical expenses	20,000
Miscellaneous expenditure	20,000
Total	**5,11,380**

Thus, the appellant-claimant shall be entitled to total compensation of ***Rs.*5,11,380/-** as against Rs.3,85,000/- awarded by the Tribunal.

9. The finding of the Tribunal with regard to the liability as well as the direction for pay and recovery is hereby affirmed.

10. 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.*5,11,380/-** as against Rs.3,85,000/- 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 and the Insurance Company is at liberty to recover the same from respondent No.2/owner of the vehicle.

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.: 18