HC-KAR

NC: 2026:KHC:62476
MFA No. 7760 of 2013

CNR: KAHC010364912013

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.7760 OF 2013(MV-I)

BETWEEN:

PARAMESHA G.S.,
S/O SHEKARAPPA
AGED ABOUT 41 YEARS
HALENANJAPURA
HOSASIDDAPURA POST
BHADRAVATHI - 577 301.

...APPELLANT

(BY SRI MAHESHA M., ADVOCATE)

AND:

1. G. ARUNACHALA
S/O LATE GANESH RAO
AGED ABOUT 63 YEARS
HOSASIDDAPURA MAIN ROAD
HOSASIDDAP0URA
BHADRAVATHI - 577 301
(OWNER OF THE CAR).

2. THE MANAGER
M/S UNITED INDIA INSURANCE CO. LTD.,
C.N.ROAD
BHADRAVATHI - 577 301.

3. SRI C R ABINANDAN
S/O SRI RAVINDRAN
AGED ABOUT 32 YEARS

Digitally signed by ANUSHA V
Location: High Court of Karnataka

HOSASIDDAPURA,
BHADRAVATHI - 577 301.
(DRIVER OF THE BUS)

…RESPONDENTS

[BY SRI P B RAJU, ADVOCATE FOR R2;
V/O DATED 28.11.2017 NOTICE TO R1 & R3 ARE D/W]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 14.3.2012 PASSED IN MVC NO.89/2010 ON THE FILE OF THE SENIOR CIVIL JUDGE, JMFC, 12TH ADDITIONAL MACT, BHADRAVATHI, 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 RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 14.03.2012 passed by Senior Civil Judge, JMFC, 12th Additional MACT, Bhadravathi, in MVC no.89/2010, this appeal is filed.

2. Sri M Mahesha, learned counsel for appellant submitted that appeal was by claimant for enhancement of compensation.

3. Brief facts leading to this appeal were that at 05:00 p.m. on 01.03.2010 when claimant was riding motorcycle no.KA-14-9436 from Bhadravathi towards Nanjapura, driver of Car no.CBQ-5 rode it in rash and negligent manner and dashed against claimant's motorcycle. In accident claimant sustained grievous injuries and despite treatment at Bhadravathi Government Hospital and later at Kasturba Hospital at Manipal, he did not recover fully and sustained permanent physical disability/loss of earning capacity. Claiming compensation he filed claim petition under Section 166 of Motor Vehicle Act, 1988, against owner, insurer and driver of car.

4. On contest wherein claim petition was opposed on all grounds, tribunal framed issues and recorded evidence.

5. To establish contentions, claimant deposed as PW.1 and got marked Exs.P1 to P17. Dr.Ashwat Acharya was examined as CW1 and Exhibits C1 to C4 were got marked. Insurer did not lead evidence but got marked a copy of insurance policy with consent as Exhibit R1.

6. On consideration, Tribunal held accident had occurred due to rash and negligent driving of insured vehicle by its driver, claimant had sustained loss of earning capacity and was entitled for compensation of Rs.1,94,847/- with 6% interest per annum from insurer. Dissatisfied with same, appeal was filed.

7. It was submitted that as on date of accident claimant was 38 years of age, working as Machine Operator at CNC Machine Technology apart from agriculture and milk vending and earning Rs.12,000/- per month. It was submitted that Ex.P12 - Salary Certificate indicated his monthly income at Rs.5,800/-. Without justification Tribunal considered monthly income at only Rs.4,050/- and awarded inadequate compensation. In accident claimant sustained dislocation of acromioclavicular joint and fracture of left inferior pubic rami. CW1 assessed disability to left upper limb at 14% and 6% due to fracture of pubic rami. However, Tribunal assessed functional disability at 8% and awarded inadequate compensation.

8. It was submitted that compensation of Rs.30,000/- towards pain and suffering, Rs.12,000/- towards conveyance

and other incidental expenses, Rs.5,000/- towards loss of amenities, Rs.81,427/- towards medical expenses, Rs.8,100/- towards loss of income during laid up period and Rs.58,320/- towards future loss of income were on lower side and sought for enhancement.

9. On other hand, Sri PB Raju, learned counsel for insurer would oppose appeal. It was submitted that considering facts and circumstances and on proper appreciation of material on record tribunal had assessed just compensation leaving no scope for enhancement.

10. Heard learned counsel, perused impugned judgment, award and record.

11. Point that arise for consideration is:

> *Whether claimant is entitled for enhancement of compensation as prayed?*

12. Same is answered partly in affirmative for following reason. Occurrence of accident involving insured vehicle and claimant sustaining permanent physical disability/earning capacity are not in dispute. Though claimant stated that he was

38 years of age, working as machine operator as well as doing agriculture and milk vending and earning Rs.12,000/-, he did not substantiate same. Though, he produced salary certificate as Ex.P12, gross income in it would be Rs.5,800/-. Since Ex.P12 is issued by employer and not disputed by insurer, monthly income mentioned therein has to be considered. As per wound certificate and other treatment records, claimant sustained dislocation of acromioclavicular joint as well as fracture of left inferior pubic rami. While passing impugned award, Tribunal noted that CW1 assessed disability of 14% to left upper limb and 6% to pubic rami and assessed functional disability at 8%. Though same is assailed, there are no grounds to hold that assessment was grossly inadequate. Therefore, assessment of disability is sustained. Considering age at 38 years, Tribunal applied correct multiplier of '15'. At Rs.5,800/- per month, compensation towards future loss of income would thus be:

Rs.5,800/- x 8% x 12 x 15 = **Rs.83,520/-**

13. Claimant sustained fracture of pubic rami apart from dislocation of shoulder joint. Award of Rs.30,000/-

towards pain and suffering would be inadequate and found appropriate to enhance to **Rs.40,000/-**. Considering inpatient treatment period of 27 days, award of **Rs.12,000/-** towards conveyance and incidental expenses would appear justified. Likewise, award of **Rs.81,427/-** towards medical expenses being in full reimbursement of bills produced would not call for enhancement. However, when Tribunal has held that claimant sustained permanent physical disability, award of only Rs.5,000/- towards loss of amenities would be grossly inadequate and enhanced to **Rs.25,000/-**. At Rs.5,800/- and taking 3 months as period of layoff, claimant would be entitled to **Rs.17,400/-** as against Rs.8,100/- towards loss of income during laid up period. Thus, claimant would be entitled to total compensation of **Rs.2,59,347/-**.

14. Consequently, following:

ORDER

i. Appeal is ***allowed***.

ii. Judgment and award dated 14.03.2012 passed by Senior Civil Judge, JMFC, 12th Additional MACT, Bhadravathi, in MVC no.89/2010 is modified.

iii. Claimant is entitled for compensation of - **Rs.2,59,347/-.** Same shall carry interest at 6% per annum from date of claim till deposit excluding period of 436 days being delay in filing this appeal.

iv. Insurer is directed to deposit amount of compensation with interest within 6 weeks.

v. On deposit, entire compensation is ordered to be released in favour of claimant.

Sd/-
(RAVI V HOSMANI)
JUDGE

YKL
List No.: 1 Sl No.: 17