HC-KAR

NC: 2026:KHC:21510
M.F.A. No.5027/2020

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.5027/2020 (MV-I)

BETWEEN:

SRI. NAGESH .K
S/O KARIHANUMAIAH
AGED ABOUT 32 YEARS
R/AT KODIGEHALLI, DODDABELE
NELAMANGALA TALUK
BENGALURU RURAL DISTRICT 562132.

…APPELLANT

(BY SRI. RAGHU R, ADV.,)

AND:

1. TATA AIG GENERAL INSURANCE CO. LTD
   2ND FLOOR, JP AND DEVI
   JAMBUKESWAR ARCADE, NO.69
   MILLERS ROAD, BENGALURU 560052
   REP. BY ITS MANAGER.

2. SRI. HANUMAIAH
   S/O VEERANNA, JODIKERAPURA
   HANABE P.O. DODDABALLAPURA TALUK
   BENGALURU RURAL DISTARICT 561204.

…RESPONDENTS

(BY SRI. PRADEEP B, ADV., FOR R1
R2 SERVED AND UNREPRESENTED)

Digitally signed by RUPA V
Location: HIGH COURT OF KARNATAKA

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED. 16.03.2020, PASSED IN MVC NO.5887/2018, ON THE FILE OF THE I-ADDITIONAL SMALL CAUSES JUDGE AND MACT, (SCCH-25), BENGALURU, 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 16.03.2020 passed in MVC.No.5887/2018 by the I Additional Small Causes Judge and MACT, Bengaluru (SCCH-25) (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. Heard Sri.Raghu R., learned counsel appearing for the appellant, Sri.Pradeep B., learned counsel for respondent No.1 and meticulously perused the material available on record.

4. The appellant met with a road accident on 10.06.2018 and the said accident occurred due to the negligent act of the motorcycle insured with respondent No.1. It is to be noticed that the appellant sustained following fractures:

> *"Pan facial fracture, left angle of mandible fracture, parsympsarl fracture, right dentoalmolar fracture, left ZMC fracture and left IOR fracture."*

5. The appellant was initially treated at Sapthagiri Hospital, Bengaluru, where first aid treatment was provided. Thereafter, he was shifted to Victoria Hospital, Bengaluru and remained as an inpatient in the said hospital from 10.06.2018 to 16.06.2018. Subsequently, he was admitted to ESIC Hospital, Bengaluru from 18.06.2018 to 30.06.2018 and was discharged thereafter. Due to pain in his right leg, he was again readmitted to the ESIC Hospital on 29.08.2018 and discharged on 03.09.2018. The records indicate that the appellant was also hospitalized at Ramaiah Hospital, Bengaluru and was an inpatient from 18.07.2018 to 27.07.2018. Thus, it is

evident that the appellant was hospitalized on four different occasions in four hospitals, for a total period of 36 days and has undergone surgery. In order to prove the income and disability, the appellant examined himself as PW1. To prove the nature of injuries, disability and treatment obtained, he examined PW2 to PW5 and got marked Ex.P1 to Ex.P37. On the other hand, the respondent examined RW1 and got marked Ex.R1 to Ex.R7. The Tribunal, by assessing the income of the appellant at Rs.9,000/- per month and disability at 10%, awarded a total compensation of Rs.4,38,960/-.

6. It is to be noticed that the appellant claimed that he was working as a design helper at Balambiga Metal Finishers Unit I & II Peenya/Dobaspet and was earning Rs.23,133/- per month. However, no documentary evidence has been placed on record to substantiate the said claim. In the absence of proof of income, the income of the appellant is notionally assessed at Rs.12,500/- per month by placing reliance on the notional income chart

prepared by the KSLSA. PW2, Dr. Nagaraj B.N., has deposed regarding the treatment provided to the appellant at various hospitals and based on examining the appellant and other medical records, he has assessed the disability at 16% to the whole body. In my considered view, the same is required to be accepted, as the Tribunal has disbelieved the same without assigning any justifiable or cogent reasons. It is not in dispute that the claimant was aged about 30 years at the time of the accident; hence, the appropriate multiplier would be 17, 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:

12,500/- x 12 x 17 x 16% = ***Rs.4,08,000/-***

7. The award of compensation by the Tribunal under the heads of medical expenses and future medical

expenses remains unaltered. However, taking note of the oral and documentary evidence and also keeping in mind the nature of injuries suffered by the appellant, particularly to his face and right knee, 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	75,000
Loss of amenities	60,000
Medical expenses	1,25,560
Loss of income during laid-up period (Rs.12,500 X 6)	75,000
Loss of future income due to disability	4,08,000
Towards conveyance, attendant charges, food and nourishment	45,000
Future medical expenses	40,000
Total	**8,28,560**

Thus, the appellant-claimant shall be entitled to total compensation of ***Rs.*8,28,560/-** as against Rs.4,38,960/- awarded by the Tribunal.

8. The finding of the Tribunal with regard to the pay and recovery is affirmed. The Insurance Company shall make good the enhanced compensation and liberty is reserved to recover the said amount from respondent No.2/the owner of the vehicle.

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.*8,28,560/-** as against Rs.4,38,960/- 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.

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 with liberty to recover the same from respondent No.2.

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.: 15