HC-KAR

NC: 2026:KHC:62754
MFA No. 2470 of 2017

CNR: KAHC010380012017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.2470 OF 2017(MV-I)

BETWEEN:

SRI SHIVABEERAIAH
S/O AKKIBEERAIAH @ CHIKKABVEERAIAH,
AGED ABOUT 46 YEARS,
R/AT NO.113, 7TH CROSS,
6TH MAIN, VINAYAKANAGAR,
KENGERI SATELLITE TOWN,
BANGALORE - 560 060.

...APPELLANT

[BY SRI K.T. GURUDEV PRASAD, ADVOCATE (PH)]

AND:

1. UNITED INDIA INSU.CO.LTD.,
T P CLAIMS HUB,
5TH & 6TH FLOORS,
KRUSHI BHAVAN,
HUDSON CIRCLE,
BANGALORE - 560 002
BY ITS MANAGER.

2. M/s. SAPHIRE MOTORS PVT. LTD.,
NO.108, SY NO.36/2A,
PATTANAGERE, B M S FARMS,
13TH KM, MYSORE ROAD,
BANGALORE - 560 059.

...RESPONDENTS

[BY SRI LAKSHMI NARASAPPA KS., ADVOCATE FOR
SRI A.M.VENKATESH, ADVOCATE FOR R1 (PH);
SRI V.B.SHIVA KUMAR, ADVOCATE FOR R2]

Digitally signed by ANUSHA V
Location: High Court of Karnataka

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 18.10.2016 PASSED IN MVC NO.3915/2014 ON THE FILE OF THE XXI ADDL.SMALL CAUSES JUDGE AND THE MOTOR ACCIDENT CLAIMS TRIBUNAL (SCCH-23) AT 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 RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 18.10.2016 passed by XXI Additional Small Causes Judge and MACT (SCCH-23), Bengaluru ('**Tribunal**'), in MVC no.3915/2014, this appeal is filed.

2. Sri Gurudev Prasad K.T., learned counsel for appellant submitted that appeal was by claimant for enhancement of compensation.

3. Brief facts leading to this appeal as per claimant were that at 11:30 am on 20.03.2014, when claimant standing in front of Aravinda Garments at Kengeri, driver of Car no.KA-

41/TC-NT-02 drove it in rash and negligent manner and dashed against claimant causing accident. In accident, claimant sustained grievous injuries and despite treatment at Rajarajeshwari Hospital, BGS Global Hospital and Shreya Hospital, he did not recover fully and sustained permanent physical disability and loss of earning capacity. Claiming compensation, he filed claim petition in MVC no.3915/2014 under Section 166 of Motor Vehicles Act, 1988 ('**MV Act**') against owner and insurer of Car.

4. On contest, wherein claim petition was opposed on all grounds, including alleging violation of terms and conditions of policy and contributory negligence, Tribunal framed issues and recorded evidence.

5. Claimant along with 3 others including Dr.Nagesh S.A., deposed as PWs.1 to 4 and got marked Exs.P1 to P29. On other hand, respondents also examined 4 witnesses marked as RWs.1 to 4 and got marked Exs.R1 to R19.

6. On consideration, Tribunal held accident had occurred due to rash and negligent driving of Car by its driver,

claimant had sustained permanent physical disability/loss of earning capacity and was entitled for compensation of Rs.26,51,246/- with interest at 6% per annum from owner and insurer. Dissatisfied with same, claimant was in appeal.

7. It was submitted that as on date of accident claimant was 43 years of age, auto owner/driver earning Rs.18,000/- per month. To substantiate same, he had produced Auto Driving Licence as Ex.P10 and RC Book and Loan Pass Book as Exs.P11 and P13 respectively. Despite same, Tribunal erred in considering his monthly income at only Rs.7,500/-. It was submitted that in accident claimant sustained severe head injury due to which bifrontal craniotomy for bifrontal contusions and diffuse cerebral oedema was conducted on 20.03.2014. Thereafter he underwent bone flap replacement surgery on 25.07.2014. Despite same, claimant became virtual deadwood. He had sustained loss of partial memory, slurring of speech, watering in his right eye, cognitive and behavioral deficit rendering him unfit for avocation, Tribunal rightly considered his functional disability at 100%. However, it erred in not adding future prospects to monthly income. Apart from above,

it was submitted that Tribunal erred in awarding only sum of Rs.1,00,000/- towards pain and suffering, Rs.11,00,000/- towards medical expenses, Rs.25,000/- towards food, nourishment and conveyance charges, Rs.20,000/- towards loss of earning during laid-up period, Rs.20,000/- towards attending charges, award of Rs.75,000/- towards loss of amenities and Rs.50,000/- towards future medical expenses were on lower side and sought enhancement.

8. On the other hand, Sri Lakshmi Narasappa, learned counsel appearing for Sri A.M. Venkatesh, advocate for respondent no.1 - insurer opposed appeal. It was submitted that Tribunal had considered facts and circumstances of case in proper perspective and assessed total disablement. Therefore, there was no scope for enhancement.

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

10. From above, only point that would arise for consideration is:

"Whether claimant is entitled for enhancement of compensation?"

11. Same is answered ***partly in affirmative*** for following reason:

i. At outset, it is seen that claimant stated that he was 43 years of age, owner/driver of auto and earning Rs.18,000/- per month by driving auto rickshaw and produced Driving Licence, RC Book in respect of auto rickshaw as well as Loan Pass Book as Exs.P10, P11 and P13. Accident occurred in year 2014, notional income for said period being Rs.8,500/-. Tribunal would not be justified in taking it at Rs.7,500/-. Considering fact that claimant was also remitting loan instalments towards purchase of auto rickshaw, it is found appropriate to consider his monthly income at slightly higher than notional income, at Rs.9,000/-.

ii. As per decision of Hon'ble Supreme Court in **Erudhaya Priya v. State Express Transport Corporation Ltd.**, reported in **2020 SCC OnLine**

SC 601, future prospects has to be added to monthly income even in personal injury claim. Since claimant was self-employed and aged between 40 and 50 years, appropriate multiplier would be '14' and future prospects at 25% has to be added. Thus, compensation towards future loss of income would be (Rs.9,000/- + 25%) = Rs.11,250/- X 100% X 12 X 14 = **Rs.18,90,000/-**.

iii. Tribunal has awarded some of Rs.75,000/- towards loss of amenities. Considering fact that claimant has lost partial memory, hearing and partial sight which he would rendering him unable to enjoy faculties during remainder of his life, said amount would be grossly inadequate and therefore enhanced to **Rs.1,50,000/-**.

iv. Claimant sustained head injury and had to undergo craniotomy for bifrontal contusions and diffused cerebral oedema and bone flap replacement surgery involving inpatient treatment for period of 115

days. Considering pain endured, award of Rs.1,00,000/- towards same would be inadequate and is enhanced to **Rs.2,00,000/-**. Tribunal has awarded **Rs.11,01,246/-** towards medical expenses, which is in full reimbursement of bills, there would be no scope for enhancement.

v. Tribunal has awarded **Rs.20,000/-** towards attendant charges and **Rs.25,000/-** towards food, nourishment and conveyance which would be approximately Rs.500/- for each day of inpatient treatment and same appears just and proper.

vi. Since assessment of disability is at 100% from date of accident, there would be no scope for enhancement of compensation towards loss of income during period of treatment, **Rs.20,000/-** awarded towards loss of earning during period of treatment is sustained.

vii. PWs.1 and 4 have stated about claimant suffering from loss of partial memory, slurring of speech,

watering in his right eye, cognitive and behavioral deficit, Tribunal has awarded only Rs.50,000/- towards same would be inadequate. Therefore, if it is enhanced to **Rs.1,50,000/-,** it would appear proper. Thus, claimant is held entitled for enhanced compensation of **Rs.35,56,246/-**.

12. In view of above, following:

ORDER

(a) Appeal is ***allowed in part***, judgment and award dated 18.10.2016 passed by Tribunal, in MVC no.3915/2014 is ***modified***, enhancing total compensation to **Rs.35,56,246/-** as against Rs.26,51,246/- assessed by Tribunal.

(b) Same shall carry interest of 6% per annum from date of claim petition till its realization.

(c) Insurer is directed to deposit enhanced compensation with interest at 6% before Tribunal within six weeks.

(d) On deposit, Tribunal is directed to release 40% of amount in favour of claimant and keep remaining 60% in fixed deposit in any nationalized bank, at highest rate of interest, for a period of five years, with liberty to claimant to seek release of same in case it is required for treatment.

Sd/-
(RAVI V HOSMANI)
JUDGE

GRD
List No.: 1 Sl No.: 29