HC-KAR

NC: 2026:KHC:65537
MFA No. 8279 of 2014

CNR: KAHC010434822014

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.8279 OF 2014 (MV)

BETWEEN:

SRI PRAKASH
S/O HANUMANTHAPPA
AGED ABOUT 46 YEARS
R/A NO.52, 9TH B CROSS
MAGADI MAIN RAO
AGRAHARA DASARAHALLI
BASAVESHWARA NAGARA
BANGALORE - 560 079.

...APPELLANT

(BY SMT.N.D.CHANCHALA, ADVOCATE FOR
SRI M R KUMARASWAMY, ADVOCATE)

AND:

1. SRI VIJAY B.N.,
S/O NEELAKANTAIAH S.,
MAJOR, AGE NOT KNOWN TO APPELLANT
R/A NO.6, 1ST CROSS
SANJEEVINI NAGARA
NAGARABHAVI
BANGALORE - 560 072.

2. UNITED INDIA INSURANCE COMPANY LTD
NO.366/72, 19TH MAIN
1ST BLOCK, RAJAJINAGAR
BANGALORE - 560 010.

...RESPONDENTS

[BY SRI C.SHANKAR REDDY, ADVOCATE FOR
SRI B.A.RAMAKRISHNA, ADVOCATE FOR R2;
V/C/O DATED 31.01.2015 NOTICE TO R1 IS D/W]

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 04.07.2014 PASSED IN MVC NO.5947/2012 ON THE FILE OF THE II ADDITIONAL SMALL CAUSES JUDGE AND XXVIII ACMM, 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 RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 04.07.2014 passed by Motor Vehicles Accident Claims Tribunal, Bengaluru (SCCH-13) in MVC no.5947/2012, this appeal is filed.

2. Smt.Chanchala N.D., learned counsel appearing for Sri M.R. Kumaraswamy, advocate for appellant submitted that appeal was by claimant for enhancement of compensation.

3. Brief facts leading to this appeal were that at 6:30 pm on 03.08.2012, when claimant was riding motorcycle no.KA-02/EH-7989 on P&T road, MC Layout, Vijayanagara, Bengaluru, driver of Car no.KA-04/B-5513 drove it in rash and

negligent manner and it dashed against motorcycle. In accident, he sustained grievous injuries and despite treatment did not recover fully. Therefore, he filed claim petition under Section 166 of Motor Vehicles Act, 1988, against owner and insurer of Car.

4. Despite service of notice, owner did not appear and was placed *ex-parte*. Only insurer opposed claim petition on all grounds, based on which Tribunal framed issues and recorded evidence.

5. Claimant examined himself as PW.1 and got marked Exs.P1 to P16. Insurer examined its Official as RW.1 and got marked Exs.R1 to R5.

6. On consideration, Tribunal held accident had occurred due to rash and negligent driving of Car by its driver, vehicle was insured and that claimant was entitled for compensation of Rs.46,647/- with interest at 6% per annum and held insurer liable to pay same. Dissatisfied with quantum, this appeal is filed.

7. It was submitted that as on date of accident, claimant was 44 years of age, employed in Vijayanagara Club and Bhavani Electricals and earning Rs.12,000/- as per Exs.P15 and P16 - Certificates. He sustained fracture of head of left radius as per Wound Certificate and Treatment Records. Despite same, Tribunal awarded only Rs.30,000/- towards pain and suffering, Rs.12,000/- towards loss of earning during treatment, Rs.2,647/- towards medical expenses, Rs.2,000/- towards attendance and other incidental expenses. It was also submitted that Tribunal did not award any compensation towards future loss of income and loss of amenities. On above grounds sought for enhancement.

8. On other hand, Sri C. Shankar Reddy, learned counsel appearing for Sri B.A. Ramakrishna, advocate for respondent no.2 - insurer would oppose appeal. It was submitted that Tribunal had considered facts and circumstances in proper perspective and assessed compensation under each of heads separately was just and proper and would not leave any scope for enhancement. It was submitted that claimant had failed to examine any doctor and therefore, would not be

entitled for compensation towards future loss of income or towards loss of amenities. It was also submitted that claimant had failed to produce any material towards loss of occupation.

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

10. From above and since only claimant is in appeal for enhancement, point that arises for consideration is:

> *"Whether claimant is entitled for enhancement of compensation?"*

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

i) Occurrence of accident due to negligence of driver of insured vehicle and claimant being entitled for compensation from insurer are not in dispute. To establish injury and loss of earning capacity, claimant relied on Wound Certificate and Treatment Records marked as Exs.P7 to P16. Same would show that claimant had sustained fracture of head of left radius

and took inpatient treatment for 7 days. However claimant failed to examine any doctor to establish permanent physical disability and loss of earning capacity. In absence, Tribunal would be justified in denying compensation towards future loss of income and loss of amenities. Since claimant sustained fracture of head of left radius and other injuries, award of only Rs.30,000/- towards pain and suffering would be inadequate and found appropriate to enhance it to **Rs.40,000/-**.

ii) Normally, fractures take about 3 months to heal. Therefore, Tribunal would not be justified in awarding compensation for only two months. Thus, compensation towards loss of income during laid-up period is enhanced to **Rs.18,000/-**. Claimant produced medical bills for **Rs.2,647/-** and Tribunal awarded same and also **Rs.2,000/-** towards conveyance and

other incidental expenses for 7 days of inpatient treatment, which cannot be stated to be inadequate warranting interference. Therefore there would be no scope for enhancement. Thus, claimant is held entitled for enhanced compensation of **Rs.62,647/-**.

12. Consequently, following:

ORDER

i. Appeal is ***allowed in part***, judgment and award dated 04.07.2014 passed by Motor Vehicles Accident Claims Tribunal, Bengaluru (SCCH-13) in MVC no.5947/2012 is ***modified***.

ii. Claimant is held entitled to enhanced compensation of **Rs.62,647/-** as against Rs.46,647/- awarded by Tribunal, with interest at 6% per annum from date of claim petition till deposit.

iii. Insurer is directed to deposit entire compensation with interest before Tribunal within six weeks.

iv. On deposit, entire compensation with interest is ordered to be released in favour of claimant.

Sd/-
(RAVI V HOSMANI)
JUDGE

GRD
List No.: 1 Sl No.: 10