**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. 427 OF 2020 (MV-I)**

**BETWEEN:**

L. KESHAVAMURTHY
S/O. K LINGAPPA,
AGED ABOUT 43 YEARS
PROPERIETOR OF SRI. MRUTHI,
TRAILERS AND ALSO AGRICULTURIST,
R/AT NO. SUJI MALLESHWARA NAGARA,
CHALLAKERE TOWN AND TALUK,
NOW R/AT C/O JAYAPPA,
S/O. MALAPPA, MEDEHALLI VILLAGE,
CHITRADURGA TALUK AND DIST - 577 501.

...APPELLANT

(BY SRI. GOPALAKRISHNAMURTHY C, ADVOCATE)

**AND:**

1. SMT. SWATHI JAYABHAGAWAN
W/O. AGARWAL JAYABHAGAWAN,
OWNER OF CAR BEARING,
REG NO. MH-12-LJ-04-21,
GAT NO. 8622, DREAMS CONST. PVT LTD,
FLAT NO. 501, WAGOLI, PUNE 412207,
MAHARASHTRA STATE.

2. THE BRANCH MANAGER,
IFFCO-TOKIO GENERAL
INSURANCE COMPANY LTD.,
BY ITS BRANCH OFFICE,
NO. 7/432, PCA AND RD BANK BLDG,
LAWYERS ROAD, KUVEMPUNAGAR,
DAVANAGERE - 577 001.

...RESPONDENTS

Digitally signed by SHARADAVANI B
Location: High Court of Karnataka

(BY SRI. B. PRADEEP, ADVOCATE FOR R2;
NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 05.11.2018 PASSED IN MVC NO.357/2017 ON THE FILE OF THE PRL. SENIOR CIVIL JUDGE ADN CJM, CHITRADURGA, 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 claimant seeking enhancement of compensation being aggrieved by the judgment and award dated 05.11.2018 passed in MVC No.357/2017 by the Court of the Principal Senior Civil Judge and C.J.M., Chitradurga (for short, 'Tribunal').

2. Though this appeal is listed for admission, with the consent of learned counsel for the parties, it is taken up for final disposal.

3. Heard Sri. Gopalakrishnamurthy C., learned counsel for the appellant and Sri.B.Pradeep, learned counsel for respondent No.2.

4. The appellant as well as the respondent are not in dispute that the appellant met with a road accident on 05.09.2015 and sustained grievous injuries. A perusal of Exhibit.P10 - disability certificate indicates that the appellant-claimant was diagnosed for pubic diastases + Sacroiliac joint disruption + Right iliac wing fracture + fracture right inferior pubic ramus + anterior column of right acetabulum + both iliac bones, he was operated. Further, on examination of appellant, there was shortening of right lower limb by 1 inch, there was curvilinear surgical scar of 20 cms over posterior aspect of right lower back and 10 cms over pubic region, there was tenderness over right saccro iliac joint and pubic region, there was decrease in range of motion and muscle strength of right hip.

5. In order to prove the disability and loss suffered due to the accident, the appellant examined himself as PW.1 and got examined Dr.Ambrish as PW.2 and got marked Exhibits.P1 to P24. The respondent-Insurance Company with the consent, got marked documents as Ex.R1 and Ex.R2. The Tribunal assessed the income at Rs.3,00,000/- per year by assessing the disability at 15% and awarded total compensation of Rs.9,12,034/-. It is to be noticed that the assessment of income by the Tribunal is based on the Income Tax returns filed by the injured which is evident from Exhibits.P11 to P13. The parties to the proceedings are not in dispute with regard to the same.

6. Insofar as disability assessed by the Tribunal is concerned, the evidence of PW.2 indicates that the appellant has sustained various fractures and undergone treatment as an inpatient for a period of 14 days from the date of accident till 19.09.2015. It is to be noticed that

PW.2 in his evidence has spoken that the fractures suffered by the appellant though united, there is a shortening of leg and scar because of the injuries. He has also deposed that the appellant faces the difficulty in walking on the plain surface, slope and climbing the stairs due to the disability. He assessed the disability at 45%. Considering the nature of injuries suffered and keeping in mind the difficulty faced by the appellant, I am of the considered view that interest of justice would be met, if the disability is assessed at 18% for the purpose of determination of compensation.

7. Having re-assessed the disability and taking note of the oral and documentary evidence on record, I am of the considered view that the compensation on all other heads are required to be re-assessed appropriately to award just compensation. Hence, the same is re-assessed as under:

| HEADS | AMOUNT (in Rs.) |
|---|---|
| Pain & suffering | 70,000.00 |
| Medical bills | 1,58,034.00 |
| Food, conveyance, attendant and transportation charges | 25,000.00 |
| Loss of future income due to disability (Rs.3,00,000 x 14 x 18%) | 7,56,000.00 |
| Loss of income during laid up period | 50,000.00 |
| Loss of amenities | 45,000.00 |
| Future medical expenses | 20,000.00 |
| **Total** | **11,24,034.00** |

8. Thus, the appellant-claimant shall be entitled to a total compensation of **Rs.8,43,025/-** i.e., 75% of Rs.11,24,034/- as against Rs.9,12,034/- awarded by the Tribunal. The finding with regard to the contributory negligence is unaltered.

9. In the result, this Court proceeds to pass the following:

**ORDER**

a) The appeal is ***allowed in part***.

b) The impugned judgment and award dated 05.11.2018 passed by the Tribunal in M.V.C.No.357/2017 is modified to an extent that the appellant-claimant would be entitled to total compensation of Rs.8,43,025/- i.e., 75% of Rs.11,24,034/- as against Rs.9,12,034/- awarded by the Tribunal.

c) The enhanced compensation shall carry interest at the rate of 6% p.a. from the date of petition till realisation.

d) The appellant-claimant is not entitled for interest for the delayed period of 253 days as per the order dated 19.10.2022.

e) The respondent-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 the certified copy of this judgment.

f) The rest of the judgment and award of the Tribunal with respect to apportionment, deposit and release shall remain unaltered.

g) Registry shall transmit the records to the Tribunal forthwith.

h) Draw modified award accordingly.

**Sd/-**
**(VIJAYKUMAR A. PATIL)**
**JUDGE**

KA
List No.: 1 Sl No.: 11