



NC: 2026:KHC:16163
M.F.A. No.4374/2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.4374/2020 (MV-I)

BETWEEN:

SRI. K. VENKATESH
S/O KASHINATHAN
AGED ABOUT 58 YEARS
R/AT NO.207, 6TH SQUARE
SSM ROAD, MURPHY TOWN
HALASURU HAL 2ND STAGE
BENGALURU 08.

...APPELLANT

(BY SRI. SHRIPAD V. SHASTRI, ADV.,)

AND:

BMTC CONTROL OFFICE
SARIGE BHAVAN
SHANTHINAGAR
K H ROAD, DOUBLE ROAD
BANGALORE 27.

...RESPONDENT

(BY SMT. RADHA B.P. ADV.,)

THIS MFA IS FILED U/S 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 03.04.2019 PASSED IN MVC NO.4409/2018 ON THE FILE OF THE MEMBER, MACT, XVIII ADDITIONAL JUDGE, COURT OF SMALL CAUSES, BENGALURU SCCH-4, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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by ARSHIFA
BAHAR KHANAM
Location: HIGH
COURT OF
KARNATAKA



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 03.04.2019 passed in MVC.No.4409/2018 by the Member, MACT, XVIII Additional Judge, Court of Small Causes, Bengaluru (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. Sri.Shripad V.Shastri, learned counsel for the appellant-injured submits that the appellant was working as a Security Guard and he was aged about 56 years at the time of accident. It is submitted that the appellant-injured sustained head injuries and was provided treatment at NIMHANS Hospital. In order to prove the



averments made in the claim petition, the appellant-claimant examined himself as PW1 and two witnesses as PWs2 and 3. It is further submitted that as per the evidence of PW3-Doctor, the appellant is unable to continue his work due to the disability. Hence, the functional disability of the appellant is required to be re-assessed at 100% and also seeks to award just and fair compensation under all other heads by allowing the appeal.

4. Per contra, Smt.B.P.Radha, learned counsel for the respondent-Corporation supports the impugned judgment and award of the Tribunal and submits that the Tribunal, considering the oral evidence of PW3-Doctor, assessed the disability at 15% and awarded just compensation under all heads. It is further submitted that PW3 is not a treated doctor and the injured was an in-patient in the NIMHANS Hospital only for a period of 3 days. Hence, there cannot be any enhancement insofar as



disability is concerned. Hence, she seeks to dismiss the appeal.

5. I have heard the arguments of the learned counsel appearing on both the sides and meticulously perused the material available on record including the Tribunal records.

6. The appellant as well as the respondent-Corporation do not dispute that in a road accident that occurred on 17.02.2018, the appellant sustained injuries, which are referred in the wound certificate as per Ex.P9. It is also not in dispute that the appellant was provided with treatment as an in-patient for 3 days in NIMHANS Hospital. Considering the nature of treatment provided to the appellant at NIMHANS Hospital, PW3-Doctor has assessed the disability of the appellant at 35% to the whole body. The perusal of the oral evidence of PW3-Doctor indicates that PW3 has assessed the disability on examining the appellant-injured and also based on the



medical records placed before him; PW3 has noted the difficulties faced by the appellant as under:

*"a) Right shoulder pain-not able to carry heavy weights,
Not able to work with right hand,
Not able to close left eye tightly,
He has difficulty in making day to day decisions, reasoning and judgment,
Decreased hearing on left side.*

b) Has reduced daytime alertness and require supervision of day time activities.

c) He will require assistance while walking elevations

6. He has undergone neuropsychological assessment of cognitive ability by Dr.PratibhaSharan (Nimhans) which revealed significant deficits in mental speed, focused attention, categoryfluency, planning, responseinhibition, verbal comprehension, verbal learning and memory, visuo spatial construction and visual learning, logical memory with bilateral frontal lobes, bilateral temporal lobe involvement. According to DGHS telescopic sum formula her cognitive and neurobehavioural disability amount to 38.66%."

7. Based on the afore-stated difficulty and on examining the injured, PW3-Doctor has assessed disability at 10% for imbalance while walking, 12% left ear



deafness, memory disturbances at 8% and 5% for right hand weakness, in total, he has assessed the disability at 35%. The said witness has been cross examined by the respondent-Corporation at length, however, nothing has been elicited in the cross examination. Admittedly, PW3 is not a treated doctor to the appellant-injured, however, his evidence also cannot be ignored in totality. PW3, while arriving at disability to the whole body at 35%, has assigned detailed reasons with regard to the difficulty faced by the injured and treatment provided to him. In my considered view, taking note of the oral evidence of PW3 and other medical evidence on record, the interest of justice would be met if the disability of the injured is re-assessed at **28%** to the whole body for the purpose of determination of compensation.

8. Admittedly, the appellant has not placed any evidence with regard to his income. Hence, his income is notionally re-assessed at Rs.12,500/- per month placing reliance on the notional income chart prepared by KSLSA.



As the appellant was aged about 56 years as on the date of accident, the appropriate multiplier would be 9, which has been rightly considered by the Tribunal. Hence, the compensation under the head of loss of future income due to disability would be as under:

$$\text{Rs.}12,500 \times 12 \times 9 \times 28\% = \textbf{Rs.3,78,000/-}.$$

9. Having re-assessed the income and disability and considering the nature of injuries and treatment provided to the appellant, I am of the considered view that the compensation awarded under other heads is also required to be enhanced appropriately. Hence, the appellant would be entitled to compensation of **Rs.50,000/-** towards pain & suffering; **Rs.37,500/-** (Rs.12,500 X 3) towards the loss of income during laid-up period; **Rs.10,000/-** towards food, conveyance, nourishment and attendant charges; and **Rs.45,000/-** towards loss of amenities in life. The compensation awarded by the Tribunal towards medical expenses is



unaltered. Thus, the appellant would be entitled to modified compensation as under:

HEADS	AMOUNT (in Rs.)
Pain & suffering	50,000
Medical expenses	17,000
Loss of income during laid up period	37,500
Loss of future income due to disability	3,78,000
Food, conveyance, nourishment and attendant charges	10,000
Loss of future amenities in life and happiness	45,000
Total	5,37,500

Thus, the appellant-claimant shall be entitled to a total compensation of **Rs.5,37,500/-** as against Rs.3,16,000/- awarded by the Tribunal.

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

ORDER

- a) Appeal is ***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 a total compensation of **Rs.5,37,500/-** as



against Rs.3,16,000/- 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 respondent-Corporation 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.
- e) The entire compensation amount shall be released in favour of the appellant-claimant.
- f) Registry shall transmit the records to the Tribunal forthwith.
- g) Draw modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE