HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 8156 OF 2016 (MV-I)

BETWEEN:

1. SRI VIJAYA
S/O BOGGA MOOLYA
@ BOGRA MOOLYA
AGED ABOUT 30 YEARS,
R/O VARKAYI HOUSE
SAJIPA MUNNUR POST
HALADY
BANTWAL TALUK - 574 201.

...APPELLANT

(BY SMT. HALEEMA AMEEN.,ADVOCATE FOR
SRI ASHOK KUMAR SHETTY.K., ADVOCATE)

AND:

1. SRI ARUN KUMAR D'SOUZA
AGED ABOUT 35 YEARS,
S/O ANTONY D'SOUZA
R/O ADAMKUDRU
JEPPINAMOGERU VILLAGE
PERMANNUR POST
MANGALURU TALUK-574 201.

2. SRI P MOIDIN KUNHI
AGED ABOUT 64 YEARS,
S/O K.P.ABDUL KHADER
R/O ASSAIGOLI
MANJANADY VILLAGE,
ASSAIGOLI POST
MANGALURU TALUK-574 201.

3. THE NEW INDIA ASSURANCE CO.LTD
CENTENARY BUILDING
2ND FLOOR,

Digitally signed by PADMASHREE SHEKHAR DESAI
Location: High Court of Karnataka

GANAPATHI HIGH SCHOOL ROAD,
MANGALURU - 575 003.
REP. BY ITS DIVISIONAL MANAGER

…RESPONDENTS

(BY SRI.B.C SEETHARAMA RAO, ADV. FOR R3, R2-SERVED;
VIDE ORDER DATED 21.08.2024, NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 20.06.2014 PASSED IN MVC NO.1282/2012 ON THE FILE OF THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE AND MEMBER, MACT, D.K.MANGALORE, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

ORAL JUDGMENT

Heard the arguments of both sides.

2. This appeal is filed against the award of the Tribunal in MVC No.1282/2012 dated 20.06.2014. The injured/claimant met with an accident on 25.03.2012 and filed claim petition claiming compensation of Rs.5,00,000/-. Tribunal considering the entire evidence on record, granted an amount of Rs.4,61,200/- with interest at the rate of 6% per annum from date of petition till realisation. Aggrieved by the said judgment and award, the appellant preferred this appeal and mainly

contented that he was inpatient for a period of 54 days on different times. He sustained grievous injuries. He examined the doctor and doctor assessed 70% disability to the lower limb. But Tribunal has taken 6% without any basis and he was earning Rs.14,000/- per month. He produced salary certificate issued by the employer to show that he was earning Rs.14,000/-per month. But his income was taken as Rs.5,000/- and the amounts granted on the other heads are meagre, therefore requested for enhancement.

3. Learned counsel of respondent No.3 stated that the Tribunal considered all the aspects and rightly granted just compensation and it needs no interference.

4. It is stated that appellant was aged 26 years and working as a Technician at Goods Wheel Tyres & Services and earning Rs.14,000/- per month. He has filed only salary certificate, but he has not examined the employer. As he failed to prove the income, his notional income is to be taken as Rs.7,000/- per month as per the chart prepared by Karnataka State Legal Services Authority. He was aged 26 years as on the date of accident and the multiplier is '17'. The petitioner

examined PW.4/doctor and he issued Ex.P9/disability certificate. PW.4 is an Orthopaedic surgeon. He stated that petitioner sustained fracture of right leg and it was shortening and comminution of the bone and the fractures of the appellant were united. He and his team operated the appellant. Restrictions in the movements of knee and ankle cannot be rectified by regular exercise and physiotherapy. There is shortening of right leg can be rectified or manageable by wearing shoes. He had issued disability certificate, in which he stated that appellant underwent surgery and he assessed 70% permanent physical disability of the right lower limb. This court finds it to take 1/3rd of 70% as 23%.

5. As the disability is more than 20% as per the judgment in ***New India Assurance Company Ltd., Vs. Abdul S/o Mehaboob Tahasildar***[1], he is entitled for future prospects. Therefore, 'loss of future earning capacity' comes to Rs.4,59,816/- (Rs.7,000 + 40% x 12 x 17 x 23%). Tribunal granted Rs.1,50,000/- towards 'medical expenses' and it is confirmed. Appellant was admitted in the hospital for 54 days

[1] MFA No.103807/2016 + dated 27.05.2022

as inpatient. Therefore, this Court finds it reasonable to grant an amount of Rs.50,000/- for 'transportation, extra nourishment and attendant charges' and the Tribunal already granted Rs.1,00,000/- for 'pain and suffering' and Rs.70,000/- for 'loss of amenities' and Rs.20,000 for 'future medical expenses' and it is confirmed. Appellant might not have attended any other work at least for a period of six months. Therefore, Rs.42,000/- (Rs.7,000 x 6) under the head 'loss of income during laid up period'. Thus, in all components awarded by this Court are as below:

Sl. No.	**Particulars**	**Amount (Rs.)**
1.	Loss of future income	4,59,816/-
2.	Medical expenses	1,50,000/-
3.	Pan and sufferings	1,00,000/-
4.	Loss of amenities	70,000/-
5.	Transportation, food and nourishment, conveyance	50,000/-
6.	Loss of income during laid up period	42,000/-
7.	Future medical expenses	20,000/-
	Total	**8,91,816/-**
	Tribunal awarded	**4,61,200/-**
	Enhanced amount	**4,30,616/-**

6. Therefore, the compensation is enhanced to ***Rs.4,30,616/-*** as against the compensation awarded by the Tribunal with interest at the rate of 6% per annum.

7. The insurance company already deposited the awarded amount before the Tribunal. Therefore, respondent No.3 is directed to deposit the enhanced compensation of Rs.4,30,616/- with interest at the rate of 6%.

8. In the result, I pass the following:

O R D E R

i. Miscellaneous First Appeal ***allowed in-part.***

ii. Judgment and award dated 20.06.2014 passed in M.V.C. No.1282/2012 on the file of the IV Additional District & Sessions Judge * Member, MACT, D.K, Mangalore is modified;

iii. The appellant-claimant is entitled for enhanced compensation of Rs.4,30,616/- along with interest at the rate of 6% per annum from the date of petition till the date of realisation;

iv. The respondent No.3-Insurance Company is directed to deposit the enhanced

compensation of Rs.4,30,616/- with interest at the rate of 6% per annum within one month from the date of this order;

v. On such deposit, the appellant-claimant is permitted to withdraw the entire amount along with interest accrued on the same;

Sd/-
(P SREE SUDHA)
JUDGE

PKN
List No.: 1 Sl No.: 65