



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. 178 OF 2015 (MV-I)

BETWEEN:

VENKATARAMAIAH
S/O GOVINDAPPA
AGED ABOUT 46 YEARS
RESIDING AT MARUTHINAGAR
HULIYAR ROAD
CHIKKANAYAKANAHALLI TOWN - 572 214.

...APPELLANT

(BY SRI. SHANTHARAJ K., ADVOCATE)

AND:

1. A B RAJASHEKARAIAH
S/O BANAVAIAH
AGE MAJOR
RESIDING AT C/O SIDDAGANGAMMA
NEW STREET, 4TH DIVISION
CHIKKANAYAKANAHALLI - 572 214.

2. THE ORIENTAL INSURANCE COMPANY LTD.,
REPRESENTED BY ITS MANAGER
BRANCH OFFICE, JAYADEVA HOSTEL BUILDING
TIPTUR - 572 201.

...RESPONDENTS

(BY SRI. K.SURESH, ADVOCATE FOR R2;
vide order dated 03.12.2021 appeal
against R1 stands dismissed)





THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 26.12.2013 PASSED IN MVC NO.972/2009 ON THE FILE OF THE SENIOR CIVL JUDGE & XIX MACT, ITINERATE COURT, CHIKKANAYAKANAHALLI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION, ETC.,

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

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

ORAL JUDGMENT

Heard Sri.Shantharaj.K., learned counsel appearing for the appellant and Sri.K.Suresh, learned counsel appearing for Respondent No.2/Insurance Company,

2. This appeal is filed challenging the judgment and award dated 26.12.2013 passed in M.V.C.No.972 of 2009 by the learned Senior Civil Judge and XIX MACT, Itinerate Court, Chikkanayakanahalli (for short, hereinafter referred to as the 'Tribunal'), in so far as exonerating the second respondent to pay the compensation and direct the



second respondent to pay the compensation by enhancing the same.

3. Brief facts of the case are that the on 01.02.2008 at about 6.30 p.m., the claimant/appellant was returning to his native after completing his business of lock repairing and selling from Mathighatta bus station to Chikkanayakanahalli on luggage auto bearing No.KA-43-347 belonging to the first respondent. The claimant and others were sitting in the luggage auto, at that time, a bus was going to Chikkanayakanahalli and the claimant attempted to get down from the luggage auto and tried to board the said bus, suddenly the driver of the luggage auto moved the said auto in a rash and negligent manner with high speed. Due to the said act, the claimant fell down on the road and sustained grievous injuries. Immediately he was shifted to Government hospital, Chikkanayakanahalli and spent an amount of Rs.25,000/- towards medicine and other incidental charges. Due to the injuries sustained out of the said accident, the



claimant is not in a position to do any work, which he was doing prior to the accident. The claimant filed a petition before the Tribunal seeking compensation of Rs.5 Lakhs.

4. The Tribunal, after considering the entire evidence available on record, granted global compensation of Rs.44,000/- with interest @ of 6% per annum from the rate of petition till realisation. The Tribunal held that there was contributory negligence of petitioner and driver of the auto rickshaw equally, i.e., 50:50 and hence, the first respondent, alone is liable to pay the compensation and directed the first respondent to pay 50% of the award amount with interest @ 6% per annum and directed to deposit the award amount within two months from the date of the said order. Aggrieved with said order, the claimant is before this Court.

5. Learned counsel for the appellant contended that the Insurance Company has not disputed the insurance coverage and they have not lead any evidence to show that there is no negligence on the part of the



driver of the auto. He further contended that the appellant has never stated in his evidence that he travelled in a luggage auto. Infact, while the appellant was waiting for the bus tried to board the auto and at the same time, the bus also came and as such, the appellant alighted from the vehicle and the auto has moved and thus, he fell down and sustained injuries. The respondent examined one Raman as RW-1 and got marked Exs.R1 and R2/Insurance policy. The Tribunal fixed 50% contributory negligence on the part of the appellant without any basis.

6. Learned counsel for the appellant further contended that the appellant examined the doctor who treated him as PW-2 and he has stated in his evidence that the petitioner has sustained fracture of right thigh and he was an inpatient from 10.02.2008 to 20.02.2008 and spent more than Rs.50,000/- towards medical expenses. The appellant was earning Rs.8,000/- per month as a lock repairer. The Tribunal granted compensation of Rs.44,000, which is on the lower side. He further contended that the



appellant was also earning Rs.10,000/- per month by agriculture, dairy farming and sericulture work. On all these grounds, learned counsel for the appellant sought for enhancement of the compensation.

7. Learned counsel appearing for Respondent No.2/Insurance Company submitted that the Tribunal has rightly observed in its judgment, in paragraph No.16 that the petitioner was travelling in a goods transport vehicle as a gratuitous passenger and the petitioner himself voluntarily alighted from the moving vehicle without giving any signal to the driver in the front seat and thus, he himself was negligent and he was in a drunken condition. The Tribunal, after considering all the aspects of the matter has rightly fixed up the contributory negligence of 50:50 towards the appellant and the first respondent and directed the first respondent to pay 50% of the award and rightly exonerated the insurance company. Therefore, he requested this Court to confirm the order passed by the Tribunal.



8. On perusal of the entire material available on record, it indicates that though it is stated that petitioner was earning Rs.8,000 per month, he has not produced any document to substantiate the same. The appellant met with an accident in the year 2008. As per the chart prepared by the Karnataka Legal Services Authority, his national income is to be taken as Rs.4,500/- per month as per the statute. As per the Wound certificate/Ex.P4, at the time of the accident, he was aged 40 years and therefore, the multiplier applicable would be '15' and the appellant has sustained fracture of right thigh. The Doctor who treated the petitioner was examined as PW-2 and in his evidence, he has stated that the petitioner has sustained the following injuries:

1. Swelling and deformity (R) lower limb.
2. Swelling and tenderness over foot region.
3. Abrasion (R) gluteal region.



9. The Doctor has further stated in his evidence that Injury No.1 is grievous in nature and other injuries are simple in nature. The petitioner was an inpatient from 10.02.2008 to 20.02.2008 for a period of 10 days. The petitioner has produced medical bills for Rs.62/-. Therefore, the Tribunal has granted a sum of Rs.30,000/- for the fractured injury towards pain and suffering. Further granted a sum of Rs.4,000/- towards two simple injuries and also granted a sum of Rs.10,000/- towards medical expenses, extra nourishment, transportation and other incidental charges. As the Doctor has not assessed the disability, the question of future loss of earning capacity does not arise.

10. Though it is stated by the learned counsel for Respondent No.2 that the appellant was in a drunken condition at the time of the accident, no evidence is produced to prove the same. The case of the petitioner is that initially he boarded the auto and when he saw the bus going on the same way, he tried to get down from the



auto, but the auto moved in a rash and negligent manner, as a result of which, the appellant fell down and sustained injuries. Charge-sheet has been filed against the driver of the auto for his negligence. The Auto rickshaw has an insurance coverage and insurance policy was in existence on the date of the accident and this Court finds it reasonable to direct the insurance company to pay the compensation. Therefore, Respondent Nos.1 and 2 are jointly entitled to pay the enhanced amount of compensation to the appellant and Respondent No.2 is directed to deposit the same. Moreover, no eye-witness is examined either by the petitioner or by the respondent that the petitioner/ appellant was a gratuitous passenger. This Court finds that there is no contributory evidence on the part of the petitioner.

11. In view of the above discussion, this Court finds it reasonable to grant compensation under the following heads:



Particulars	Amount (Rs.)
Pain and suffering	30,000
Loss of amenities	10,000
Transportation	30,000
Loss of income during laid up period (Rs.4500 X 2)	9000
Simple injuries	4,000
Medical bills	62
Total	83,062

12. Hence, the compensation is enhanced to Rs.83,062/- as against Rs.44,000/- along with interest at 6% per annum from the date of petition till the date of deposit.

13. In the result, the following order is passed:

ORDER

- i. Appeal is ***allowed-in-part.***
- ii. The judgment and award dated 26.12.2013 passed in M.V.C.No.972 of 2009 by the Senior Civil Judge & XIX MACT, Itinerate Court, Chikkanayakanahalli, is modified;



- iii. The appellant is entitled to a sum of **Rs.83,062/-** along with interest at 6% per annum from the date of petition till the date of realization as against **Rs.44,000/-**.
- iv. Respondent No.2/Insurance Company is directed to deposit the enhanced amount of compensation, i.e., (Rs.83,062-Rs.44,000) = **Rs.39,062/-** within one month from the date of this order.
- v. On such deposit, the appellant is permitted to withdraw the entire amount along with accrued interest.
- vi. Registry is directed to return the Trial Court records to the Tribunal, along with certified copy of the order passed by this Court forthwith, without any delay.



vii. The appellant is not entitled for interest for the delayed period of 267 days in filing the appeal.

viii. Draw award accordingly.

Sd/-
(P SREE SUDHA)
JUDGE

DH
List No.: 1 Sl No.: 37