



NC: 2026:KHC-D:4660
MFA No. 102551 of 2014

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 25TH DAY OF MARCH, 2026
BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

MISCELLANEOUS FIRST APPEAL NO.102551 OF 2014 (MV-I)

BETWEEN:

MUKKANNA S/O CHIKKAPPA DODDAMANE,
AGE: 42 YEARS, OCC: COOLIE, NOW NIL,
R/O: GOULAYYANAHATTI VILLAGE, POST: CHIKKAPUR,
DIST: CHITRADURGA, NOW AT VAGEESHNAGAR,
RANEENNUR, TQ: RANEENNUR, DIST: HAVERI.

...APPELLANT

(BY SRI GS HULMANI, ADVOCATE)

AND:

1. SMT.R SAVITRAMMA W/O T NAGARAJAPPA,
AGE: MAJOR, OCC: AGRICULTURE,
R/O: GULENAHALLI VILLAGE,
POST: CHIKKAPUR, DIST: CHITRADURGA.
2. THE DIVISIONAL MANAGER,
UNITED INDIA INSURANCE CO. LTD.,
ENKAY COMPLEX, KESHAWAPUR, HUBLI.

...RESPONDENTS

(BY SRI CV ANGADI, ADVOCATE FOR R2 (ABSENT);
NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT 1988, AGAINST JUDGMENT AND AWARD DATED 31.07.2013, PASSED IN MVC.NO.493/2010 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND AMACT RANEENNUR, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION & ETC.

THIS MFA COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE RAVI V.HOSMANI



ORAL JUDGMENT

Since matter is of year 2014, it is taken up for disposal.

2. Challenging judgment and award dated 31.07.2013 passed by Principal Senior Civil Judge and Addl. MACT, Ranebennur (**'Tribunal'**, for short) in MVC no.493/2013, this appeal is filed.

3. Sri Girish S.Hulmani, learned counsel for appellant submitted appeal was by claimant for enhancement of compensation. It was submitted, on 24.09.2009 at about 08:15 p.m., when claimant was returning in tractor trailer unit no.KA-16/T-8568 and T-8569, after unloading banana at Chitradurga, driver of said vehicle applied brakes suddenly, due to which, he fell down and sustained grievous injuries and despite treatment at District Hospital, Chitradurga, SSI Hospital, Davanagere and Kasturba Hospital, Manipal, he did not recover fully and sustained loss of earning capacity. Therefore, he filed claim petition against owner and insurer of tractor trailer under Section 166 of Motor Vehicles Act, 1988.



4. On contest, wherein claim petition was opposed on all grounds, Tribunal framed issues and recorded evidence. Claimant examined himself and Dr.Umanath R.Ullal as PWs1 and 2. Exhibits P1 to P28 were got marked. In rebuttal, two witnesses were examined by respondents as RWs1 and 2 and copy of insurance policy was got marked as Ex.R1.

5. On consideration, Tribunal held accident had occurred due to rash and negligent driving of tractor trailer by its driver, vehicle was duly insured with respondent - insurer and therefore, claimant was entitled for total compensation of ₹5,92,500/- with interest at 6% per annum from owner/insurer jointly and severally. Dissatisfied with same, this appeal was filed.

6. It was submitted, as on date of accident, claimant was 36 years of age and earning ₹10,000/- per month from agriculture. However, Tribunal erroneously considered his monthly income notionally at ₹4,500/-. Further, claimant sustained fracture of left first rib with dislocation fracture of first carder vertebra, communitied fracture of left and right scapular bones assessed by PW2 to have caused 80% disability to affected limb. However, Tribunal assessed functional disability at



only 45% and awarded inadequate compensation. It was submitted, though claimant sustained three fractures, award of ₹50,000/- towards pain and suffering was on lower side and sought enhancement. It was further submitted, claimant had taken inpatient treatment for total period of 54 days. Therefore, award of ₹30,000/- towards food and other incidental expenses was called for enhancement. It was submitted, Tribunal had awarded ₹18,000/- towards loss of income during period of treatment which also called for enhancement. It was lastly submitted, though PW2 in Ex.P16 - discharge card had clearly stated that claimant was suffering from monoplegia apart from restriction of abduction movement of left arm to 80°, Tribunal had not granted any compensation towards loss of amenities and therefore, sought for grant of adequate compensation. On said grounds sought for allowing appeal.

7. There is no representation for respondent - insurer.
8. Heard learned counsel, perused impugned judgment and award and record.



9. From above and since only claimant is in appeal for enhancement, point that would arise for consideration is:

‘Whether claimant is entitled for enhancement of compensation as sought?’

10. Same is answered ‘partly in affirmative’ for following reasons.

11. Though claimant stated that he was earning ₹10,000/- per month from agriculture, same was not substantiated. In absence, Tribunal assessed it notionally at ₹4,500/- even though notional income for year 2009 was ₹5,000/-. Therefore, ₹5,000/- has to be considered. It is not in doubt that claimant sustained three fractures i.e. fracture of first rib, communitied fracture of both left and right scapula bones and fracture of left side brachial plexus assessed by PW2 in Ex.P16 to have resulted in 80% disability to affected limb. Indeed, in Ex.P16 - disability certificate, PW2 observed claimant suffering from monoplegia. He also stated that there was restriction of movement of abduction of left hand to 80° which would be restriction of nearly 50%. Other fractures i.e. fracture of rib and scapula bones may not lead to loss of earning capacity by



themselves. On overall consideration, assessment of functional disability at 45% does not appear to be grossly inadequate as to call for interference. Therefore, same is sustained. Claimant's age is 36 years. Multiplier applicable would be '15'. Thus, future loss of income is reassessed as follows:

$$₹5,000 \times 45\% \times 12 \times 15 = \textbf{₹4,05,000/-}.$$

12. When claimant sustained three fractures, award of ₹50,000/- would not appear adequate. Considering number of fractures, it is found appropriate to enhance compensation towards pain and suffering to **₹70,000/-**. Claimant has taken inpatient treatment for a period of 54 days as borne on record, award of ₹30,000/- towards same would appear inadequate and stands enhanced to **₹50,000/-**. Tribunal awarded **₹1,30,000/-** towards medical expenses against bills produced, which would be in complete reimbursement, leaving no scope for enhancement. Since ₹5,000/- is hold as monthly income compensation towards loss of income during laid up period is re-worked to **₹20,000/-**. Though claimant has sustained permanent physical disability of monoplegia at young age of 36 years, Tribunal has not awarded any compensation towards loss of amenities. Taking note of his



age and occupation, it is found appropriate to award sum of
₹1,00,000/- towards loss of amenities.

Towards loss of future income	₹4,05,000/-
Pain and suffering	₹70,000/-
Towards conveyance, attendant and other incidental expenses	₹50,000/-
Medical expenses	₹1,30,000/-
Loss of income during laid up period	₹20,000/-
Loss of amenities	₹1,00,000/-
Total	₹7,75,000/-

13. Consequently, following:

ORDER

- i. Appeal is **allowed in part.**
- ii. Claimant is entitled for enhanced compensation of **₹7,75,000/-** as against ₹5,92,500/- awarded by Tribunal excluding of 314 days being delay in filing appeal. Same shall carry interest at 6% p.a. from date of petition till date of deposit.
- iii. Insurer is directed to deposit enhanced compensation within six weeks.



HC-KAR

NC: 2026:KHC-D:4660
MFA No. 102551 of 2014

- iv. On deposit, entire amount is ordered to be released to claimant.

Sd/-
(RAVI V.HOSMANI)
JUDGE

CLK
LIST NO.: 1 SL NO.: 27