



NC: 2026:KHC-D:4834
MFA No. 103099 of 2014

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

MISCELLANEOUS FIRST APPEAL NO.103099 OF 2014 (MV)

BETWEEN:

SAYYED ARIFULLA
S/O SAYYED MEHABOOB SHA PEERZADE,
AGE: 36 YEARS, OCC: SERVICE,
R/O. MUGUD VILLAGE, TQ: AND DIST: DHARWAD.

...APPELLANT

(BY SMT.SHAILA BELLIKATTI, ADVOCATE)

AND:

1. MR. WASIMKHAN S/O AYUB ALI KHAN,
AGE: MAJOR,
OCC: OWNER OF M.V NO.GA-01/W-7108,
R/O. BUILDING NO.8, FLAT NO.M/45,
HOUSING COLONY CURTI PONDA, GOA STATE.
2. THE ORIENTAL INSURANCE CO. LTD.,
BY ITS DIVISIONAL MANAGER,
II FLOOR ENKEY COMPLEX,
KESHWAPUR, HUBLI.
3. HASANSAHEB REHAMANSAHEB KANDAGAL,
AGE: MAJOR,
OCC: DRIVER OF M.V NO.GA-01/W-7108,
R/O. VENKATPET BHAJANTRI GALLI,
NEAR RURAL POLICE STATION, BAGALKOT.

...RESPONDENTS

(BY SRI SV YAJI, ADVOCATE FOR R2;
NOTICE TO R1 & R3 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT PRAYING TO ALLOW THE APPEAL AND MODIFY JUDGMENT AND AWARD IN MVC NO.569/2007 DATED 06.06.2012 PASSED BY THE PRINCIPAL SENIOR CIVIL JUDGE AND CJM AND ADDITIONAL MACT DHARWAD UNDER ALL PERMISSIBLE HEADS & 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

Challenging judgment and award dated 06.06.2012 passed by Principal Senior Civil Judge and CJM and Addl. M.A.C.T, Dharwad (for short, 'Tribunal') in MVC no.569/2007, this appeal is filed.

2. Smt.Shaila Bellikatti, learned counsel for appellant submitted, appeal was by claimant for enhancement of compensation. It was submitted that on 25.02.2007, claimant along with his father were traveling on motorcycle, when driver of Goods Truck no.GA-01/W-7108 drove it in rash and negligent manner and dashed against motorcycle. In accident, claimant sustained grievous injuries and despite treatment at District Hospital, Dharwad and KIMS Hospital, Hubballi as well as Orthopedic Center at Bengaluru, did not recover fully and sustained permanent physical disability and consequent loss of earning capacity. Therefore, he filed claim petition under Section 166 of MV Act against driver, owner and insurer of Lorry. Even



his father sustained injuries and filed separate claim petition. Both were clubbed.

3. Despite service of notice, owner and driver did not appear and were placed *ex-parte*. Only insurer opposed claim petition on all counts. Based on pleadings, Tribunal framed issues and recorded evidence. Claimants along with Dr.Suryakanth deposed as PW1 to PW3 and got marked as Ex.P1 to P106. Insurer did not lead evidence.

4. On consideration, Tribunal held accident had occurred due to rash and negligent driving of lorry by its driver, therefore claimants were entitled for compensation from insurer. In MVC no.569/2007, it awarded ₹1,65,000/- as compensation with 6% interest per annum. Dissatisfied with same, appeal was filed.

5. It was submitted, claimant (in MVC no.569/2007) was 29 years of age and serving in Health Department. In accident, he sustained fractures of 5th, 6th and 7th ribs apart from fracture of proximal phalanx of 5th finger. Though, he sustained various fractures, Tribunal awarded only ₹75,000/- towards pain and suffering, ₹15,000/- towards loss of amenities, ₹10,000/- towards loss of life expectancy, ₹50,000/- towards medical and



incidental expenses and ₹15,000/- towards conveyance and other incidental expenses, which were on lower side. It was submitted that claimant was 29 years of age and sustained fracture/disability, which would affect his marital prospects. Even interest awarded on compensation at 6% per annum was on lower side and therefore sought enhancement.

6. On other hand, Sri SV Yaji, learned counsel for respondent/insurer opposed appeal. It was submitted, claimant being an employee of Health Department continued in employment and Tribunal rightly considered claim under all eligible heads and awarded just compensation, leaving no scope for enhancement. It was alternatively submitted even in case claimant was entitled for enhancement of compensation, there was no material for assessment of loss of marriage prospects.

7. Heard learned counsel, perused impugned judgment, award and record.

8. From above, point that would arise for consideration is,

“Whether claimant is entitled for enhancement
of compensation?

Same is answered partly in affirmative as follows:



9. There is no dispute about occurrence of accident and claimant sustaining grievous injuries and permanent physical disability on account of accidental injuries. Tribunal has awarded compensation as follows:

Sl. no.	Heads	Amount in Rupees
1	Pain and suffering	Rs.75,000/-
2	Loss of future amenities	Rs.15,000/-
3	Towards loss of life expectancy	Rs.10,000/-
4	Towards medical expenses	Rs.50,000/-
5	For conveyance and nourishment	Rs.15,000/-
	Total	Rs.1,65,000/-

10. Though, various grounds are urged seeking enhancement of compensation. On overall consideration, award appears just and proper under few heads, while appears on higher side under some heads. But on overall consideration and especially taking note of age of claimant and injuries sustained, there would appear some scope for enhancement. Instead of disturbing award on all heads and reworking compensation it is found fit to award an additional global amount of ₹25,000/- over and above award in question. Consequently, following:



ORDER

- (i) Appeal is allowed in part.
- (ii) Judgment and award dated 06.06.2012 passed in MVC no.569/2007 by Principal Senior Civil Judge and CJM and Additional M.A.C.T., Dharwad is modified. Claimant is held entitled for an additional global compensation of ₹25,000/- over and above compensation awarded with interest at 6% per annum from date of claim petition till deposit, excluding 813 days being delay in filing appeal.
- (iii) Insurer is directed to deposit same before Tribunal within 6 weeks.
- (iv) On deposit, entire compensation is ordered to be released in favour of claimant.

Sd/-
(RAVI V.HOSMANI)
JUDGE