



NC: 2026:KHC-D:4830
MFA No. 103096 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.103096 OF 2014 (MV)

BETWEEN:

THE ORIENTAL INSURANCE CO. LTD.,
P.B.NO.57, VIKAS COMPLEX, STATION ROAD,
OPP: BHARAT WATCH CO., HUBLI-580020.
REPRESENTED BY DEPUTY MANAGER,
REGIONAL OFFICE, SUMANGALA COMPLEX,
LEMINGTON ROAD, HUBLI-580020.

...APPELLANT

(BY SRI SV YAJI, ADVOCATE)

AND:

1. KESHAV RAMA NAIK,
A/A, AGE: 49 YEARS,
OCC: AGRICULTURE AND BETEL NUT BUSINESS,
R/O. AMBALLI, KANSUR,
POST: DEVISAR, TQ: SIDDAPUR.
2. THE PROPRIETOR SHRIKUMAR TRAVELS (SRL),
SMT.GETA V. HEGDE,
SAKEENA PLAZA, NH-17,
SHARAVATI CIRCLE, HONNAVAR (N.K).

...RESPONDENTS

(BY SRI MM PATIL, ADVOCATE FOR R1;
NOTICE TO R2 IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT 1988, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD PASSED AGAINST THE APPELLANT DATED 28.08.2014 PASSED BY THE FAST TRACT COURT SIRSI AT SIRSI IN MVC NO.26/2014 BY ALLOWING THE APPEAL AND DISMISSING THE CLAIM PETITION AGAINST THIS APPELLANT. PASS SUCH OTHER ORDER OR ORDERS AS THIS HON'BLE COURT DEEMS FIT UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE INCLUDING THE COST IN THE INTEREST OF JUSTICE AND EQUITY.



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 28.08.2014 passed by Fast Track Court, Sirsi (for short, 'Tribunal') in MVC no.26/2014, this appeal is filed.

2. Sri SV Yaji, learned counsel for appellant submitted that appeal was by insurer challenging award on quantum. It was submitted that on 20.10.2012, when claimant was traveling as a passenger in Bus no.KA-47/7787 along with his wife and son from Bengaluru to Siddapur, driver of bus drove it in rash and negligent manner and near Tarikere, it met with accident. Claimant sustained grievous injury and though, he took treatment at Government Hospital, Tarikere, Meggan Hospital, Shimoga, Rotary Charitable Hospital, Sirsi and Anjuman Hospital, Hubballi, he did not recover fully and sustained loss of earning capacity. Therefore, he filed claim petition under Section 166 of Motor Vehicles Act against owner and insurer of bus.

3. Despite service of notice, owner did not appear and was placed *ex-parte*. Only insurer contested claim petition on all



counts. Based on pleadings, tribunal framed issues and recorded evidence. Claimant along with Dr.BS Kanakareddi were examined as PW-1 and 2 and Exs.P1 to P19 got marked. Insurer did not lead oral evidence and got marked insurance policy with consent at Ex.R1.

4. On consideration, Tribunal held, accident had occurred by rash and negligent driving of bus by its driver and claimant was entitled for total compensation of Rs.3,89,600/- with interest at 6% per annum. Aggrieved by excessive compensation, insurer was in appeal.

5. It was firstly submitted, Ex.P5-Wound Certificate issued by Government Hospital, Tarikere and opined nature of injury as simple and there were no fractures noted. Even though, claimant took treatment at Meggan Hospital, Shimoga and Rotary Charitable Hospital, Sirsi respectively, no material was produced to establish any fracture. However, Anjuman Hospital at Hubballi, opined that he had sustained displacement fracture of C5-cervical vertebra and as per Ex.P7-Disability Certificate assessing disability at 30%, Tribunal considered excessive loss of earning capacity at 20% and awarded compensation. It was submitted



even award of compensation under other heads especially award of ₹60,000/- towards loss of amenities and ₹30,000/- towards future medical expenses were unsustainable and sought for allowing appeal.

6. On other hand, Sri MM Patil, learned counsel for respondent no.1/claimant opposed appeal. It was submitted that Tribunal had considered material on record in proper perspective and awarded just compensation leaving no scope for reduction.

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

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

“Whether assessment of compensation by
Tribunal is excessive and calls for reduction?

Same is answered partly in affirmative for following reasons:

9. Though, claimant stated that he was working as an agriculturist and earning ₹10,000/- per month, same was not substantiated. Therefore, Tribunal assessed it notionally at ₹6,000/-. But notional income for 2012 was ₹6,500/- and same ought to have been considered. As per medical records, claimant did not sustain fracture, though, discomfort at cervical was



noted. Under such circumstances, award of ₹70,000/- towards pain and suffering would be grossly excessive and is reduced to ₹35,000/-. Tribunal awarded ₹6,000/- towards medical and other incidental expenses taking note of medical bills for ₹2,505/- and duration of treatment. Same appears justified and sustained. Tribunal has considered laid up period as 6 months in view of fracture of cervical and treatment at four different places for 6 months. Since monthly income considered at ₹6,500/-, claimant would be entitled for ₹39,000/- towards loss of income during laid up period. Award of ₹400/- towards attendant charges being miniscule is sustained. Insofar as future loss of income, PW2 who issued Ex.P7, assessed disability due to injury to cervical at 30%. Normally, disability to particular limb/area would reduce in comparison with whole body. In light of above, assessment is excessive. It is found appropriate to reduce functional disability to 10%. Applying 13 multiplier, compensation towards future loss of income would be ₹6,500/- X 10% X 12 X 13 = ₹1,01,400/-. Though, there is a challenge against award of compensation towards future medical expenses, in his deposition as well as in cross-examination, PW2 has specifically opined need for surgery by claimant to avoid serious injuries to backbone.



Though, PW2 assessed cost of such surgery to be ₹80,000/-, Tribunal has awarded ₹30,000/-. In view of deposition of PW2 supporting need for surgery, same is sustained. Consequently, claimant would be entitled for reassessed compensation of ₹2,41,800/-.

10. In view of above, following:

ORDER

- (i) Appeal is allowed in part.
- (ii) Judgment and award dated 28.08.2014 passed by Fast Track Court, Sirsi in MVC no.26/2014 is modified. Compensation reduced from ₹3,89,600/- to ₹2,41,800/- with interest at 6% per annum from date of claim petition till deposit.
- (iii) Amount in deposit is ordered to be transmitted to Tribunal for disbursal.
- (iv) Balance amount to be deposited within six weeks.



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(v) On deposit, entire amount to be released in
favour of claimant.

Sd/-
(RAVI V.HOSMANI)
JUDGE

CKK, CT:
LIST NO.: 1 SL NO.: 6