



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 14TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MRS JUSTICE P SREE SUDHA

MISCL. FIRST APPEAL NO. 200635 OF 2023 (MV-I)

BETWEEN:

TIPPAWWA W/O. BHIMANNA,
AGE 57 YEARS, OCC. AGR. & COOLIE (NOW NIL),
R/ KADAMGERA, CHAMANAL,
TQ. SHAHAPUR, DIST. YADGIRI,
NOW RESIDING AT SHIVA NAGAR,
YADGIRI, TQ. & DIST. YADGIRI.

...APPELLANT

(BY SRI. VEERANAGOUDA, ADVOCATE)

AND:

1. MD. HAJI PASHA S/O. MD. OSMAN,
AGE 37 YEARS,
OCC. OWNER OF MINI GOODS AUTO,
BEARING REG. NO. KA-32/C-9118,
R/O. H.NO. 9/19, AHAMMAD NAGAR,
KALABURAGI-585101.
2. CHOLAMANDALAM MS GENERAL INSURANCE
CO. LTD., UNIT NO. 4, 9TH FLOOR,
GOLDEN HEIGHT COMPLEX,
59TH C CROSS, INDUSTRIAL SUBURB,
RAJAJI NAGAR, 4TH MAIN BLOCK,
BENGALURU-10.
THROUGH ITS MANAGER.

...RESPONDENTS

(BY SRI.SUBASH MALLAPUR, ADV. FOR R2;
V/O. DATED 13.02.2023, NOTICE TO R1 IS D/W)



THIS MFA IS FILED U/S 173(1) OF MV ACT, PRAYING TO ALLOW THE APPEAL, THE JUDGMENT AND AWARD DATED 25-07-2022 IN MVC NO.344/2020 PASSED BY THE MEMBER, MACT-II AT YADAGIRI, MAY KINDLY BE MODIFIED BY ENHANCING THE COMPENSATION AS CLAIMED IN THE CLAIM PETITION, IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MRS JUSTICE P SREE SUDHA

ORAL JUDGMENT

1. Heard the arguments from both sides.
2. This appeal is filed by the claimant against the Judgment and award dated 25.07.2022 passed in MVC No.344/2020 by the MACT-II, Yadagiri, (for short 'the tribunal'), seeking enhancement of the compensation awarded by the tribunal.
3. The claimant met with a road traffic accident on 25.08.2020. He filed claim petition seeking compensation of Rs.35,00,000/- along with interest from the date of accident till realization. The tribunal considering the entire evidence on record has awarded a sum of Rs.3,95,035/- along with 6% interest from the date of petition till its entire realization. Aggrieved by the said order, this appeal is filed by the



claimant seeking enhancement of the compensation awarded by the tribunal. The petitioner as per the disability certificate i.e. Ex.P.9 suffered non-union IT fracture with implant (TF) in situ with Z-effect with remaining disability and has permanent disability in relation to lower limb 64%. But the tribunal has considered permanent physical impairment at 15% to the whole body and awarded meager compensation. It is stated that, the claimant was earning a sum of Rs.15,000/- per month, but the tribunal has taken his income at Rs.12,000/- per month. The claimant examined P.W.2 the Doctor. P.W.2 assessed the disability of the claimant at 64%, but the tribunal erroneously considered the disability at 15% which is on lower side. Therefore, he requested for enhancement of the compensation. As per wound certificate Ex.P.5, the claimant sustained hip joint shows inter-trochanteric fracture of right femur which is grievous in nature. He was admitted on 26.08.2020 and discharged on 01.09.2020. P.W.2 in his evidence stated that, there is difficulty in walking and climbing the stairs and squatting and assessed the disability at 65%. He further



stated that, he requires two surgeries for implant removal at a later stage and estimated the cost of future medical expenses at Rs.1,24,000/-. The claimant was hospitalized for a period of six days. Considering the nature of injury and period of hospitalization, this Court finds that the tribunal has rightly considered the disability at 15% and it needs no interference. The age of the deceased was taken as more than 65 years and the multiplier of '5' was taken by the tribunal. The learned counsel for the petitioner stated that, in the wound certificate immediately after the accident his age was shown as 65 years and again in the discharge card also, his age is shown as 65 years. Therefore, this Court finds it reasonable to take his age as 65 and the multiplier would be '7'. Though the petitioner has stated that he was earning a sum of Rs.15,000/- per month, by doing agricultural work, but he has not produced any income proof. As he met with the accident on 25.08.2020, as per the guidelines of the Karnataka State Legal Services Authority, his income is to be taken at Rs.13,750/- per month. Hence, the loss of future income would be as under:



$$\text{Rs.13,750/-} \times 12 \times 7 \times 15\% = \text{Rs.1,73,250/-}$$

4. There is no dispute regarding the medical expenses i.e. Rs.82,035/- granted by the tribunal and it needs no interference. The petitioner might have not attended any work at least for a period of three months. Therefore, he is entitle to a sum of Rs.13,750/- X 3 months = Rs.41,250/- under the head of loss of earning during laid up period. This Court finds it reasonable to enhance pain and sufferings to Rs.30,000/- and loss of amenities to Rs.25,000/-. The amount granted under the head, extra nourishment, traveling and attendant charges is Rs.35,000/-, and future medical expenses was granted as Rs.1,00,000/- is proper and needs no interference. Hence, the total compensation awarded by this Court would be as under:

Sl.No.	Heads of compensation	Amount
1	Future loss of income	Rs.1,73,250/-
2	Medical expenses	Rs.82,035/-
3	Loss of income during laid up period	Rs.41,250/-
4	Pain and sufferings	Rs.30,000/-
5	Loss of amenities	Rs.25,000/-
6	Extra nourishment, traveling and attendant charges	Rs.35,000/-
7	Future medical expenses	Rs.1,00,000/-
	Total	Rs.4,86,535/-



5. The compensation amount awarded by the tribunal in a sum of Rs.3,95,035/- is enhanced to Rs.4,86,535/- along with interest at the rate of 6% per annum from the date of petition till the date of realization.

6. Learned counsel for the Insurance company submits that, the compensation amount awarded by the tribunal has been deposited by the Insurance company before the tribunal.

7. Accordingly, the following order:

ORDER

(i) The appeal is allowed in part;

(ii) The compensation amount awarded by the tribunal in a sum of Rs.3,95,035/- is enhanced to Rs.4,86,535/- along with 6% interest per annum from the date of petition till the date of realization;

(iii) The respondent No.2 is directed to deposit the balance amount of Rs.91,500/- along



with interest at the rate of 6% per annum within one month;

(iv) On such deposit by the respondent No.2, the claimant is permitted to withdraw the entire amount along with accrued interest thereon.

Sd/-
(P SREE SUDHA)
JUDGE

SVH
List No.: 1 Sl No.: 69
CT:RJ