

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18<sup>TH</sup> DAY OF JANUARY, 2016

BEFORE

THE HON'BLE MR. JUSTICE L. NARAYANA SWAMY

**MISCELLANEOUS FIRST APPEAL No.2591/2014 (MV)**

**BETWEEN:**

GANGAPPA  
S/O NARASIMHAPPA  
AGED ABOUT 42 YEARS  
NATIVE OF- GUNDLAHALLI  
GOWRIBIDANUR-TQ, CHIKKABALLAPURA-DIST  
PRESENTLY R/AT C/O SIDDALINGA REDDY  
NO.320/C, AVANI, SHRINGERINAGAR  
NAYANAPPANAHALLI, ARAKERE  
B.G.ROAD, BENGALURU-560076

...APPELLANT

(BY SRI.P.SURESH, ADVOCATE)

**AND:**

THE MANAGING DIRECTOR  
KSRTC DIVISION  
K.H.ROAD, SHANTHINAGAR  
BENGALURU-560043

...RESPONDENT

(BY SRI.N.DINESH RAO, ADVOCATE)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED: 01.08.2013 PASSED IN MVC NO.2769/2012 ON THE FILE OF MACT, BENGALURU (SCCH-13), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL COMING ON FOR ADMISSION THIS DAY, THE COURT DELIVERED THE FOLLOWING:-

**J U D G M E N T**

This appeal is filed by the claimant for enhancement of compensation against the judgment and award dated 01.08.2013 in MVC No.2763 to 2769/2012 on the file of the Motor Vehicles Accident Claims Tribunal, Bengaluru.

2. By the impugned judgment and award, the Tribunal has awarded compensation of Rs.1,02,900/- with interest at 6% per annum from the date of petition till realisation.

3. The only ground urged by the learned Counsel for the claimant - appellant is that, the injured had sustained grievous injuries in the accident, he has under gone treatment, pain and suffering.

4. Per contra, the Counsel for the Insurance Company supports the judgment and award of the tribunal and seeks dismissal of the appeal.

5. Heard the learned Counsel for the parties.

6. As per the wound certificate, discharge summary at Ex.P.39 & Ex.P.40, Photos with CD at Ex.P.42, it reveals that the appellant had sustained fracture of lumbar spine and fracture of 6<sup>th</sup> to 8<sup>th</sup> ribs and urinary blade, damaged. He has taken first aid treatment at Gowribidanur Government Hospital and admitted to Victoria Hospital on 17/01/2012 and discharged against medical advice on 18/01/2012. He has admitted in Gowribidanur Government Hospital on 23/01/2012 and discharged on 23/03/2012. Totally he has taken treatment as inpatient for two months, the tribunal has erred in not awarding any compensation towards loss of income during laid up period and the compensation on which heads the tribunal has awarded is also on the lower side. He therefore, seeks for enhancement of the compensation.

7. He was earning Rs.6,000 p.m. by doing coolie work, but due to the accident, the appellant is unable to work as he was working before the accident. The Tribunal has assessed to take monthly income of the appellant at Rs.5,000/- p.m. He has suffered pain and agony and has

spent huge amount towards conveyance and nourishment and medical expenses. He also submits that tribunal has erred in not awarding just and proper compensation towards various heads.

8. Taking into consideration the rival submissions of both parties and oral and documentary evidence on record, the tribunal is justified in awarding Rs.65,000/- towards pain and sufferings and it does not call for interference.

9. However, the tribunal has erred in awarding only Rs.15,000/- towards loss of earning during medical treatment, I am inclined to award another **Rs.15,000/-** under the loss of earning during medical treatment, as against Rs.7,900/- towards medical treatment, I am inclined to award another **Rs.15,000/-**, towards conveyance, nourishment, food and attendant charges Rs.15,000/- awarded by Tribunal is just and proper it does not call for interference. Under the loss of amenities, I am inclined to award **Rs.10,000/-** under this head.

10. Accordingly, the appeal is ***allowed in part*** and the impugned judgment and award passed by the Tribunal in MVC No.2769/2012 stands modified, granting a compensation of Rs.1,42,900/- instead of Rs.1,02,900/- (enhanced compensation comes to Rs.40,000/-). The enhanced compensation shall carry interest at 6% p.a., from the date of petition till its deposit.

11. The Insurance Company is directed to satisfy the award within three months from the date of receipt of the judgment and award.

**Sd/-  
JUDGE**

MS\*