



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**  
**DATED THIS THE 27<sup>TH</sup> DAY OF AUGUST, 2024**  
**BEFORE**  
**THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA**  
**MISCELLANEOUS FIRST APPEAL NO.2157/2023 (MV-I)**

**BETWEEN:**

SRI. RAMESH M.K.  
S/O LATE KARIAPPA  
AGED ABOUT 52 YEARS  
R/AT. BEGURU VILLAGE AND POST  
PONNAMPET TALUK  
COORG DISTRICT-571216.

...APPELLANT

(BY SRI. HARSHA G, ADV. FOR  
SRI. SACHIN B.S. ADV.)

**AND:**

1. SHAUKATH ALI A.S.  
S/O ALIRA SOOFI  
AGED ABOUT 30 YEARS  
R/AT. BEGUR VILLAGE AND POST  
PONNAMPET TALUK  
COORG DISTRICT-571216.
2. H.M. DEVAIAH  
S/O LATE MUDDAIAH  
R/AT. HYSODLOORU VILLAGE AND POST  
PONNAMPET TALUK  
COORG DISTRICT-571216.
3. THE UNITED INSURANCE CO. LTD.,  
KATHA NO.42/6, 1 SURVEY NO.39,39/1,  
ABOVE UNION BANK OF INDIA



GANAPATHY STREET, CHOWK  
MADIKERI, KODAGU DISTRICT-571201  
BY ITS MANAGER.

...RESPONDENTS

(BY SRI. RAVISH BENNI, ADV., FOR R3  
R1 & R2 SERVED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 07.02.2023 PASSED IN MVC NO.83/2021 ON THE FILE OF THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, KODAGU-MADIKERI, SITTING AT VIRAJPET, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION.

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

CORAM: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

### **ORAL JUDGMENT**

Heard Sri.Harsha G. who represents Sri.Sachin B.S. learned counsel on record for appellant. Sri. Ravish Benni, learned counsel for respondent No.3 is also heard.

2. The claimant is before this Court seeking enhancement of compensation. Being dissatisfied with the amount that is awarded as compensation by the Motor Accidents Claims Tribunal, Virajpet, through orders in MVC No.83/2021 dated 07.02.2023, this appeal is filed. The Tribunal through the impugned order awarded a sum of Rs.4,90,006/- as compensation as against the claim for Rs.12,50,000/-.



3. Arguing the matter Sri.Harsha, learned counsel for appellant states that the appellant sustained grievous injury due to the accident, took treatment as inpatient for about a week, but could not regain to normality. Learned counsel states that the appellant underwent surgery. Though by all the medical evidence produced, both oral and documentary, the appellant established those facts before the Tribunal, the Tribunal did not award just sum as compensation and therefore, this appeal is filed. Learned counsel thereby seeks to enhance the compensation.

4. Arguing the matter Sri.Ravish Benni, learned counsel for respondent No.3 on the other hand contends that the Tribunal taking into consideration the totality of facts and circumstances has awarded a just sum as compensation and therefore, the award needs no interference.

5. It is not in dispute that the appellant sustained fracture of both bones of right leg which is grievous in nature. Also it is not in dispute that the appellant took treatment as inpatient for four days and during the course of treatment interlocking nailing of right tibia was done under Spinal Anastasia. Though the appellant contended that as an



agriculturist he was earning Rs.3,00,000/- per annum, the appellant did not produce any proof to that effect. Taking the notional income as Rs.15,000/- per month, the age as 51 years by the date of accident and also considering the entire evidence produced, the Tribunal awarded a sum of Rs.4,90,006/- under following heads:

<b>Sl. No</b>	<b>Heads of compensation</b>	<b>Amount in Rs.</b>
1	For pain and suffering, mental agony	50,000-00
2	Loss of earning during the treatment period	30,000-00
3	For medical expenses	68,006-00
4	For special diet and conveyance	20,000-00
5	Loss of future income due to permanent disability	2,97,000-00
6	Future medical expenses	25,000-00
<b>Total</b>		<b>4,90,006-00</b>

6. The amount awarded under the heads pain and suffering, medical expenses, special diet and conveyance, loss of future earnings due to permanent disability and future medical expenses, is highly reasonable and therefore, needs no interference. So far as loss of earnings during laid up period is concerned, this Court is of the view that the appellant would not have attended his normal pursuits at-least for a period of



three months. Therefore, the loss of earnings during laid up period comes to Rs.45,000/- (15,000/- x 3). However, the Tribunal awarded a sum of Rs.30,000/- only under the said head. Thus, the increase would be Rs.15,000/- (45,000/- minus 30,000/-). Also the Tribunal has not awarded any amount towards loss of amenities in life. In the light of nature of injury sustained, this Court is of the view that there is requirement to award a sum of Rs.10,000/- towards loss of amenities in life. Also the Tribunal failed to award any amount towards attendant charges. Having considered the period of treatment taken and the nature of injury sustained, this Court considers desirable to award a sum of Rs.5,000/- towards attendant charges. Thus, the appellant is entitled to an additional sum of Rs.30,000/-. Except such enhancement, this Court does not find any other ground to interfere with.

7. Thus, the appeal is disposed of with the following

**ORDER**

- i) The appeal is allowed in part.
- ii) The compensation that is awarded by the Motor Accidents Claims Tribunal, Virajpet, through orders in MVC No.83/2021 dated 07.02.2023 is enhanced by Rs.30,000/-.



iii) The enhanced sum shall carry interest at the rate of 6% per annum from the date of petition till the date of deposit.

iv) The third respondent is directed to deposit the enhanced sum within a period of eight weeks from the date of receipt of copy of this order.

v) On such deposit, the appellant is permitted to withdraw the entire amount.

**Sd/-**  
**(DR.CHILLAKUR SUMALATHA)**  
**JUDGE**

AP  
List No.: 1 Sl No.: 61