

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1<sup>ST</sup> DAY OF JUNE 2015

BEFORE

THE HON'BLE MR.JUSTICE S.N.SATYANARAYANA

MISCELLANEOUS FIRST APPEAL NO.5278/2012(MV)

BETWEEN :

P.R.KAVYASHREE  
AGED ABOUT 14 YEARS  
D/O NAGARAJ P.V.RAJANNA,  
R/BY HER NATURAL GUARDIAN FATHER,  
RAJANNA, S/O MALLANNA,  
AGED ABOUT 56 YEARS,  
R/A. OPP. VIJAYA BANK, HALEVOOR ROAD,  
HOSAPETE, HULIYURDURGA,  
YADIYUR HOBLI,  
KUNIGAL TALUK,  
TUMAKURU DISTRICT.

...APPELLANT

(BY SRI MUSHTAQ AHMED, ADV.)

AND:

MANAGING DIRECTOR  
K.S.R.T.C.  
KENGAL HANUMANTHAIAH ROAD,  
SHANTHI NAGAR,  
BENGALURU,  
REP. BY ITS MANAGER.

...RESPONDENT

( BY SMT.SUMANGALA A.SWAMY, ADV.)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, AGAINST THE JUDGMENT AND AWARD DATED 21.09.2010 PASSED IN MVC.NO.738/2008 ON THE FILE OF THE SENIOR CIVIL JUDGE & JMFC, ADDITIONAL MACT, KUNIGAL, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

### JUDGMENT

Claimant in MVC.No.738/2008 on the file of Additional MACT, Kunigal, has come up in this appeal seeking enhancement of compensation awarded for the injuries suffered by her in a road traffic accident occurred on 7.4.2008.

2. The undisputed facts leading to this appeal are as under:

Claimant, a minor girl, aged about 10 years as on the date of accident was traveling in a KSRTC bus from Kunigal to Channarayapattana. On the way, said bus met with an accident with another KSRTC bus resulting in fracture of left leg and blunt injuries to head and chest to the claimant. The claimant was immediately taken to Adichunchangiri Hospital, Bellur,

where she was provided first-aid and aforesaid injuries were identified by taking x-ray. Later she was referred to Government Hospital, Kunigal, where further treatment was given to her as an outpatient. Thereafter, the claim petition is filed by her father, the natural guardian seeking compensation.

3. In the proceeding before Tribunal, after recording the evidence and on going through the material on record the Tribunal has allowed the claim petition awarding compensation to the claimant in a sum of Rs.80,000/- payable with interest at 6% p.a., from the date of petition till date of deposit. Being aggrieved by the same, the present appeal is filed by the claimant seeking enhancement of compensation.

4. Heard the learned counsel for appellant as well as contesting respondent, insurance company. Perused the judgment impugned. On going through the same, it is seen that the accident is not in dispute, so also injuries. It is also not in dispute that the claimant, who was at the tender age of 10 years at the relevant point of time, had to undergo fracture to her left leg, which immobilized her for more than 4 to 5 months

resulting in loss of education for a period of almost one year, which is not taken into consideration by the Tribunal. Further, compensation awarded under the head medical expenses at Rs.3,000/- is negligible considering the nature of injuries and the compensation awarded towards pain and suffering at Rs.42,000/- also requires reconsideration.

5. In that view of the matter, with the consent of learned counsel appearing for the parties, instead of admitting this appeal, the same is disposed off by marginally enhancing the compensation from Rs.80,000/- to Rs.1,00,000/-, which is apportioned in the following manner:

1.	Pain and suffering	Rs.45,000/-
2.	Medical expenses	Rs.10,000/-
3.	Loss of amenities	Rs.15,000/-
4.	Loss of marriage prospects	Rs.20,000/-
5.	Loss of education	<u>Rs.10,000/-</u>
	Total	<u>Rs.1,00,000/-</u>

6. Accordingly, the appeal is allowed in part. The judgment and award dated 21.9.2010 passed in MVC.No.738/2008 on the file of Additional MACT, Kunigal, is modified. The compensation awarded by the Tribunal at

Rs.80,000/- is enhanced to Rs.1,00,000/- payable with interest at 6% pa., from the date of petition till date of payment of entire amount. As and when the enhanced compensation is deposited into court the same shall be invested in the name of appellant with right to recover the same on attaining the age of 21 years along with interest accrued thereon.

SD/-  
JUDGE

*nd/-*