

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 23<sup>RD</sup> DAY OF JANUARY 2009

PRESENT

THE HON'BLE MR. JUSTICE K.SREEDHAR RAO

AND

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

MFA NO 4486 OF 2003 (MV)

BETWEEN

1 SOMASHEKARA S  
S/O SHIVASHANKAR  
23 YEARS, NO.1831,  
ANCHAKARI ROAD  
SRIRANGAPATNA

... APPELLANT

(By Sri N SURENDRA KUMAR, ADV)

AND :

- 1 M L KESHAVAMURTHY  
S/O M C LAKSHMANA GOWDA  
23 YEARS, KAMAKSHI HOSPITAL ROAD  
KUVEMPUNAGAR, MYSORE  
DRIVER OF SUZUKI SAMURAI
- 2 SMT RATHNAMMA G  
W/O M C LAKSHMANA GOWDA  
NO.336, KAMKSHI HOSPITAL ROAD  
MYSORE, OWNER OF SUJUKI SAMURAI
- 3 THE ORIENTAL INSURANCE CO LTD  
CHAMARAJA DOUBLE ROAD,  
MYSORE



4 SRINIVASA  
NO.976, III CROSS, SUNNADAKARI  
K R MOHALLA, MYSORE  
OWNER CUM DRIVER OF  
AUTO KA-06-3544

5 RAJU  
MAJOR, C/O C KUMAR  
NO.800/2, III CROSS  
LAKSHMIPURAM, MYSORE  
DRIVER OF AUTO MES 6510

6 C KUMAR  
S/O CHAMAPPA, NO.890/2  
III CROSS, LAKSHMIPURAM  
MYSORE  
OWNER OF THE ABOVE AUTO

... RESPONDENTS

(By Sri P B RAJU, ADV FOR R3 )

THIS MFA IS FILED U/S 173(1) OF MV ACT  
AGAINST THE JUDGMENT AND AWARD DATED: 14.2.2003  
PASSED IN MVC NO.61/1998 ON THE FILE OF THE I  
ADDL.CIVIL JUDGE (SR.DN.) & CJM & MACT, MYSORE,  
PARTLY ALLOWING THE CLAIM PETITION FOR  
COMPENSATION AND SEEKING ENHANCEMENT OF  
COMPENSATION.

THIS APPEAL COMING ON FOR ORDERS THIS DAY,  
**SREEDHAR RAO J.** DELIVERED THE FOLLOWING:

### J U D G M E N T

The appellant-petitioner was a rider of the  
motorcycle collided with the auto. The petitioner  
sustained fracture of right femur and he was

operated for seven times. The total body disability is assessed at 15%. The limb disability is assessed at 75%.

The Tribunal has found that the accident occurred solely on account of negligence of the rider of the motorcycle and that there is no negligence on the part of the autorickshaw. The rider of the motorcycle is prosecuted in the criminal case.

The petitioner was a final year MBBS student at the time of accident and now he has become a doctor. The disability does not affect his employment, avocation and future earnings.

On reassessment of facts and evidence, the petitioner is entitled to Rs.50,000/- towards pain and agony, Rs.75,000/- towards loss of amenities and future discomfort if any, on account of disability. Medical bills for Rs.39,508/- is produced. Rs.75,000/- is granted towards medical and incidental expenses.



Rs.25,000/- towards loss of educational expenses for a period of one year during which he was under treatment and could not attend the classes and examination. In all, the petitioner is entitled to compensation of Rs.2,25,000/- as against 1,37,317/- awarded by the Tribunal. On the enhanced compensation, interest payable is at 6% p.a. from the date of petition till payment.

The enhanced compensation shall be payable by the insurer of the motorcycle.

The appeal is allowed in part.

Sd/-  
Judge

Sd/-  
Judge

TL.