

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 6TH DAY OF JULY 2011

BEFORE

THE HON'BLE MR. JUSTICE SUBHASH B. ADI

M.F.A. NO.3479 OF 2010 [MV]

BETWEEN

G S HONNAPPA
AGED ABOUT 57 YEARS
S/O LATE SIDDAPPA
R/AT GUNDANAYAKANAHALLI KASABA
HOBLI, ARASIKERE TALUK
HASSAN DISTRICT
PRESENTLY RESIDING AT
C/O MALALIGOWDA, NEAR HELIPAD
UDAYAGIRI EXTENSION
HASSAN-573201. ... APPELLANT

(BY SRI:CHETHAN.B, ADV.,)

AND

1. ARIF
S/O SAYAD GAFAR,
MAJOR
C/O Y.K EXPORT FOOT WEAR
NO. 789, VIDHYA JYOTHI NAGARA,
HOGASANDRA BANGALORE
2. THE MANAGER
THE ORIENTAL INSURANCE CO LTD
DOOR NO. 348, CHURCH STREET,
BANGALORE-01 REPRESENTED BY
THE MANAGER, ORIENTAL INSURANCE CO. LTD.,
SHARADA COMPLEX, SUBASH SQUARE
HASSAN 573201 ... RESPONDENTS

(BY SRI:HARINI SHIVANANDA, ADV., FOR R2
Notice to R1 is dispensed with)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 12.03.2010 PASSED IN MVC NO.893/2008 ON THE FILE OF PRINCIPAL CIVIL JUDGE (SR.DN.) & ADDITIONAL MACT, HASSAN, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

J U D G M E N T

Notice to respondent No.1 is dispensed with, as the liability of respondent No.2-insurer is not in dispute.

Appeal by the claimant seeking enhancement of compensation. The Tribunal has awarded compensation of ₹1,13,680/- with interest. Unsatisfied with the same, the claimant is before this Court.

2. The evidence on record shows that the claimant had suffered nine injuries, which are as under:

- (i) Bloows was oozing from right ear
- (ii) Lacerated wound below right cheek measuring 1 cm x 0.5 cm.
- (iii) Abrasion over the right elbow
- (iv) Abrasion over left middle finger
- (v) Abrasion over right ribs
- (vi) Abrasion over right knee
- (vii) Abrasion over left knee
- (viii) Abrasion over right ankle
- (ix) Fracture of right tibia and fibula

SPW

3. The doctor – PW2 has assessed the disability at 26% to the right limb and has not assessed the percentage of disability to the whole body. Having regard to the same, the Tribunal has taken the disability to the whole body at 8% and has awarded compensation as under:

1	Medical expenses	₹28,000/-
2	Pain, injuries and sufferings	₹20,000/-
3	Loss of future earnings	₹31,680/-
4	Loss of amenities and enjoyment in life	₹15,000/-
5	Conveyance, nourishment and attendant charges	₹5,000/-
6	Loss of income during laid up period	₹9,000/-
7	Future medical expenses (does not carry interest)	₹5,000/-
TOTAL		₹1,13,680/-

3. It is not in dispute that the claimant has suffered grievous injuries and he was treated as inpatient in the hospital for 12 days. Though the accident is of the year 2008, the Tribunal has taken the income of the claimant as Rs.3,000/- per month. Hence, if the income is taken at Rs.3,600/- per month, the

[Signature]

claimant is entitled for Rs.47,520/- [360x12x11] as against ₹31,680/-. Therefore, an additional sum of Rs.15,840/- is awarded towards 'loss of future income'. Towards 'pain and sufferings' an additional sum of ₹10,000/- is awarded, towards 'loss of amenities' an additional sum of ₹5,000/- is awarded. Towards 'future medical expenses', the Tribunal has awarded only ₹5,000/- and the same is enhanced by ₹10,000/-. Therefore, in all, the claimant is entitled to an additional compensation of ₹40,840/- rounded off to ₹41,000/- over and above the compensation awarded by the Tribunal with interest.

4. Accordingly, this appeal is allowed in part.

Sd/-
JUDGE

VOR