BEFORE

THE HONBLE MR. JUSTICE K.SREEDHAR RAO

MISC. FIRST APPEAL No. 7950 OF 2002(MVC)

## BETWEEN

SAVITHA S W/O.K.T.MALLIKARJUNAPPA AGED ABOUT 29 YEARS R/O.BURUJINAHATTI CHITRADURGA 577 501

APPELLANT

(By Sri : V P KULKARNI & M UDUPA)

## AND :

- 1 G S NAGARAJ S/O.G.S.SIDDALINGAPPA MAJOR, R/AT DATTATREYA NILAY HOLALKERE ROAD, CHITRADURGA 577501
- 2 THE NEW INDIA ASSURANCE CO LTD
  BY ITS BRANCH MANAGER
  CHITRADURGA BRANCH OFFICE,
  HOLALKERE ROAD, CHITRADURGA RESPONDENTS

(By Sri : K SURYANARAYANARAO FOR R2)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:8.10.02 PASSED IN MVC NO.1364/98 ON THE FILE OF THE ADDL. DISTRICT JUDGE MACT, CHITRADURGA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

This Miscellaneous First Appeal coming on for final hearing this day, the Court made the following:



Petitioner in MVC. 1364/98 sustained fracture of right femur in a motor vehicle accident. Petitioner is operated and as an inpatient she took treatment at two hospitals in Bangalore. Petitioner has not produced any evidence to prove that she suffered any permanent disability. Petitioner is a tailor. It is reasonable to assess her income at Rs. 1,500/- p.m.

2. On re-examination of facts and evidence, for pain and agony the petitioner is entitled to a sum of Rs. 40,000/-. Petitioner has produced medical bills for Rs. 19,238/-. Towards other incidental expenses for treatment, petitioner could be awarded a total compensation of Rs. 30,000/- under this head. Rs. 10,000/- towards loss of amenities and discomfort on account of late reflections, towards loss of earnings during the laid up period Rs. 6,000/-. In the absence of proof of permanent disability, no amount can be awarded towards loss of future earnings.

The appeal is allowed. In all the petitioner is entitled to a compensation of Rs. 36,000/- as against Rs. 70,000/- awarded



by the Tribunal, with interest at 696 p.a. from the date of petition till payment on the enhanced compensation amount.

Scd/-Judge

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