

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 16TH DAY OF AUGUST, 2011

BEFORE

THE HON'BLE MR.JUSTICE SUBHASH B ADI

M.F.A.NO. 7798/2010 (MV)

BETWEEN:

SRI. NAGENDRAPPA
S/O NAGAPPA
AGED ABOUT 56 YEARS
R/O ANJAYENA MILL
QUARTERS, NEAR KAIMAGGA
DAVANAGERE TALUK AND DISTRICT

... APPELLANT

(BY SRI. SPOORTHY HEGDE, ADVOCATE)

AND:

1. M/S BAJAJ ALLIANZ GENERAL
INSURANCE CO. LTD.,
BY ITS DIVISIONAL MANAGER
4TH FLOOR, KALBURGI MANSION
OPP: MUNICIPAL CORPORATION
HUBLI
2. SRI. P. THIPPE SWAMY @ THIPPESHI
S/O PAKKEERAPPA
AGED ABOUT 44 YEARS
DRIVER OF BIKE NO. KA-17-K-8482
R/O BADA VILLAGE
DAVANAGERE TALUK & DISTRICT
3. SRI. KANTHAPPA
S/O POJAR PARASAPPA
AGED ABOUT 46 YEARS

OWNER OF BIKE NO. KA-17-K-8482
R/O BADA VILLAGE
DAVANAGERE TALUK & DISTRICT.

... RESPONDENTS

(BY SRI. O. MAHESH, ADVOCATE FOR R1)

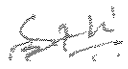
THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED: 03.05.2010 PASSED IN MVC NO. 537/2009 ON THE FILE OF THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, MACT, DAVANAGERE, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

JUDGMENT

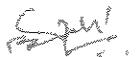
Appeal by the claimant seeking enhancement of compensation in respect of judgment and award dated 03.05.2010 passed in MVC No. 537/2009 on the file of the II Additional District and Sessions Judge, MACT, Davanagere.

2. Tribunal on appreciation of evidence on record has awarded compensation of Rs. 47,000/- with interest. Unsatisfied with the same, the claimant is before this Court.



3. Tribunal though, has referred to the evidence of doctor who has been examined as PW2, has not mentioned any injury sustained by the claimant except mentioning that he has sustained grievous injury. To come to a proper conclusion and appreciation of evidence of doctor, Tribunal should have appreciated the evidence based on the nature of the disability. However, from the evidence of doctor it appears that the claimant sustained fracture of right femur. It is also in the evidence that the doctors who treated the claimant have not been examined, no disability certificate is produced.

4. As far as injury is concerned, evidence discloses that the claimant had suffered fracture of femur. Even in the absence of proper evidence, compensation awarded by the Tribunal is on the lower side. In case of agriculturist or labour, fracture of femur may lead to some disability. Having regard to the same, claimant is entitled for global compensation of Rs. 50,000/- over



and above the compensation awarded by the Tribunal
with interest.

Accordingly, appeal is allowed in part.

Sd/-
JUDGE

PMR