

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26<sup>TH</sup> DAY OF OCTOBER, 2017

BEFORE

THE HON'BLE MR. JUSTICE B.SREENIVASE GOWDA

MISCELLANEOUS FIRST APPEAL No.12108/2011 (MV)

BETWEEN:

VENKATACHALA  
S/O DASEGOWDA  
AGED ABOUT 52 YEARS  
R/AT NO.21, MUDDAMGERE  
MANDYA TALUK  
MANDYA DISTRICT-571407

... APPELLANT

(BY SRI: R.PRAMOD, ADV)

AND:

1. K.L.SURESH  
M/s SRI BALAJI MINERALS  
MAJOR, NO.14,  
GABBADI KAVAL VILLAGE  
HAROHALLI HOBLI,  
KAGGALAHALLI POST  
KANAKAPURA ROAD  
BANGALORE-560085.
2. THE ICICI LOMBARD MOTOR INS. CO. LTD.,  
NO.263, MYTHRI ARCADE  
KANTHARAJU URS ROAD  
SARASWATHIPURAM  
MYSORE-570004  
REP BY THE BRANCH MANAGER

...RESPONDENTS

(BY SRI: B.C.SHIVANNE GOWDA, ADV FOR R2,  
NOTICE TO R1 IS DISPENSED WITH VIDE  
COURT ORDER DATED 29.09.15.)

THIS MFA IS FILED UNDER SECTION 173(1) OF  
MV ACT AGAINST THE JUDGMENT AND AWARD DATED  
28.10.2010 PASSED IN MVC NO.673/2008 ON THE FILE  
OF THE PRINCIPAL CIVIL JUDGE (SR.DN) MACT,  
MANDYA, PARTLY ALLOWING THE CLAIM PETITION FOR  
COMPENSATION AND SEEKING ENHANCEMENT OF  
COMPENSATION.

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

### J U D G M E N T

Though this matter is listed for admission, with  
the consent of learned Counsel appearing for both the  
parties, it is heard, admitted and disposed of finally.

2. The claimant aggrieved by the quantum of  
compensation awarded by the Tribunal has preferred  
this appeal seeking for enhancement of compensation.

3. Heard Sri.R.Pramod, learned counsel  
appearing for the appellant-claimant and  
Sri.B.C.Shivanne Gowda, learned counsel appearing for  
respondent No.2-insurer. Perused the judgment and  
award passed by the Tribunal.

4. As there is no dispute regarding certain damage caused to Honda Unicorn motor cycle bearing registration No.KA-11-L-9380 on 29.04.2008 in a road traffic accident occurred due to rash and negligent driving of a goods tempo bearing registration No.KA-05-AC-5306 by its driver and liability of the insurer of the offending vehicle, the only point that arises for my consideration in the appeal is:

“Whether the compensation of Rs.10,000/- with interest at 6% per annum awarded by the Tribunal towards damage caused to the motor vehicle of the claimant is just and reasonable or does it call for enhancement?”

5. The claimant, except examining himself as PW1 and an eye witness to the incident as PW2 and producing cost of estimation of repair and final bill at Exs.P6 and 7, has not examined the person who got his vehicle repaired and has not produced the document for having paid Rs.18,089/- towards amount incurred by him for repair of the vehicle.

6. Considering the nature of vehicle, year of manufacturing of vehicle and damage caused to the vehicle based on MV report, justice would be met, if an additional sum of Rs.6,000/- is awarded as global compensation in addition to Rs.10,000/- awarded by the Tribunal.

7. Accordingly, the appeal is allowed. The impugned judgment and award of the Tribunal is modified. The claimant is entitled to an additional global compensation of Rs.6,000/- without interest.

The Insurance Company shall deposit the additional compensation of Rs.6,000/- within two months from the date of receipt of a copy of this order and it shall be released to the claimant.

No order as to costs.

SD/-  
JUDGE

\*bgn/-