

IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT DHARWAD

DATED THIS THE 29TH DAY OF JANUARY 2009

BEFORE

THE HON'BLE MR.JUSTICE B.S.PATIL

M.F.A.No.12096/2007

BETWEEN:

Divisional Manager,
The New India Assurance Co. Ltd.,
1st Floor, Near Vidyarthi Bhavan,
C.J.Hospital Road, Davangere,
Now represented by its
Regional Manager,
The New India Assurance Co. Ltd.,
Regional Office, 2-B,
Unity Building Annexe,
P.Kalinga Rao Road,
Bangalore – 560 027.

..APPELLANT

(By Sri V.R.Datar, Adv.)

AND:

1. Makabulsab S/o Mohammed Alisab,
Shimoga, age: Major,
R/o Chikkamaganur,
Tq: Ranebennur, Dist: Haveri.

2. R.Vittalrao S/o Rangappa Pawar,
Age: Major,
Owner of Tata India,
House No.282, Gandhigalli,
Ranebennur.

..RESPONDENTS

(By Sri.Lokesh Malavalli, Adv. for R-1
M/s.Dharwar Law Assts. for R-2)

This Appeal is filed under Section 30(1) of WC Act against the judgment dated 24.03.2007 passed in WCA/NF-128/2005 on the file of the Labour Officer and Commissioner for Workmen's Compensation, Haveri District, Haveri, awarding compensation of Rs. 1,88,433/- with interest @ 12% p.a.

This Appeal is coming on for admission, this day the Court made the following:-

JUDGMENT

01. The main grievance of the appellant-Insurance Company in this appeal is with regard to the legal question as to whether the Commissioner was justified in awarding interest with effect from the expiry of 30 days from the date of accident.

02. Although learned counsel for the appellant has contended that the compensation awarded is also excessive, having regard to the nature of the injuries suffered and in the wake of the evidence of the Doctor who has deposed that there was permanent disability to an extent of 60% on account of fracture of three ribs and the fracture of tibia and fibula and keeping in mind the loss of earning capacity taken by the Commissioner at 45%, I do not find any substance in the contention urged by the counsel for the appellant. The injured



was 34 years old and was a driver by profession and was found to be earning Rs.3,500/- per month. The accident has taken place on 19.06.2005. Therefore, the Commissioner, applying the relevant factor has quantified the compensation of Rs.1,88,433/-. The approach adopted by the Commissioner in assessing the loss of earning capacity and in awarding the compensation cannot be termed as illegal so as to warrant interference in exercise of jurisdiction under Section 30 of the Workmen's Compensation Act.

03. However, insofar as the award of interest is concerned, as rightly contended by the learned counsel for the appellant, interest at 12% ought to have been awarded only from the date of the award passed by the Commissioner that is to say with effect from 24.03.2007. This is clear from the ruling of the Apex Court in the case of **National Insurance Company Limited Vs. Mubasir Ahmed & Another** reported in **AIR 2007 SC 1208**. Therefore, the claimant is entitled for interest with effect from 24.03.2007 and not with effect from the expiry of 30 days from the date of accident.

04. In the result and for the foregoing, this appeal is allowed in part. The award passed by the Commissioner is modified



only to the extent that the interest shall be paid on the amount determined from 24.03.2007 at 12%. The amount in deposit shall be transferred to the Commissioner.

**Sd/-
Judge**

PKS