

IN THE HIGH COURT OF KARNATAKA,  
CIRCUIT BENCH AT DHARWAD

DATED THIS THE 8th DAY OF MARCH, 2013

B E F O R E

THE HON' BLE MR. JUSTICE B.SREENIVASE GOWDA

**MFA No. 25154 of 2012 (MV)**

**Between:**

Moulasab Abdulsab Durgigudi,  
Age: 23 years, Occ: Agriculture,  
R/o Mulagund,  
Tq. & Dist: Gadag,

...Appellant

(By Sri Chandrashekar P. Patil, Adv.)

**A n d:**

1. Cholamandalam M.S.  
General Insurance Company Ltd.,  
Bellary Branch  
Dist: Bellary  
By its Branch Manager
2. Shanta, W/o Pandurang Pattar,  
Age: 45 years, Occ: Household  
3589, R/o Halepeti,  
Near Sankroji Printing Press,  
Bagalkot.

... Respondents

(By Sri Ravidra R. Mane, Adv. for R 1  
notice to R 2 is dispensed with.)

This MFA is filed under Section 173(1) of the Motor Vehicles Act against the judgment and award dated 04.05.2012 passed in MVC No.224/2009 on the file of the District Judge and Member, MACT, Gadag, partly

allowing the claim petition for compensation and seeking enhancement of compensation.

This Appeal coming on for Orders, this day, the Court deliver the following:

**J U D G M E N T**

This appeal is by the claimant for enhancement of compensation awarded by the Tribunal.

2. Although the appeal is listed for orders, with the consent of learned Counsel appearing for the respondents, it is taken up for final disposal.

3. For the sake of convenience, parties are referred to as they are referred to in the claim petition before the Tribunal.

4. As there is no dispute regarding injuries sustained by the claimant in a road traffic accident occurred due to rash and negligent driving of offending Cruiser Trax bearing registration No.KA-29/M-3589 by its driver and liability of the insurer of the offending vehicle, the only point that remains for my consideration in the appeal is :

Whether the quantum of compensation awarded by the Tribunal is just and proper or does it call for enhancement ?

5. After hearing the learned Counsel for the parties and perusing the award of the Tribunal, I am of the view that the compensation awarded by the Tribunal is not just and proper and it is required to be enhanced.

6. As per Ex. P 4 wound certificate the claimant has sustained fracture of left vertebra and other two simple injuries. It is also evident from Ex. P 10 disability certificate and evidence of the claimant and doctor examined as PWs 1 and 2 respectively. The doctor has stated there is 20% permanent physical disability.

7. Considering nature of injuries, duration of treatment and disability, Rs.40,000/- awarded by the Tribunal towards pain and suffering, Rs.300/- towards medical expenses, Rs.25,000/- towards loss of amenities and Rs.12,000/- towards incidental expenses such as conveyance, nourishment and attendant charges are just and

proper and there is no scope for enhancement under these heads.

8. Claimant claims to have been earning Rs.4,500/- by doing agricultural work, but no document has been produced in this regard. In the absence of proof of income considering the age of the claimant and year of accident I assess the income of the claimant at Rs.4,000/- p.m. as against Rs.3,500/- p.m. assessed by the Tribunal. Nature of injuries suggests that he must have been under treatment and rest at least for a period of 4 months and I award Rs.16,000/- towards loss of income during laid up period.

9. The doctor has stated the claimant has suffered 20% permanent physical disability. Considering the same functional disability is taken at 15%. The claimant is 20 years old. The multiplier applicable to his age is

10. Accordingly loss of future income works out to Rs.1,29,600/- (Rs.4,000/- x 15% x 12 x 18) and it is awarded as against Rs.75,600/- by the Tribunal.

11. Thus the claimant is entitled for the following compensation :

1. Pain and suffering	Rs.40,000/-
2. Incidental expenses	Rs.12,000/-
3. Medical expenses	Rs. 300/-
4. Loss of income during laid up Period.	Rs. 16,000/-
5. Loss of amenities	Rs. 25,000/-
6. Loss of future income	Rs.1,29,600/-
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	Rs.2,22,900/-
Less compensation awarded by The Tribunal	Rs. 1,63,400/-
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Additional compensation	Rs. 59,500/-

12. Thus the claimant is entitled for an additional compensation of Rs.59,500/- with interest at 6 % p.a. from the date of claim petition till the date of payment.

13. The Insurance Company is directed to deposit the additional compensation with interest at 6% p.a. from the date of claim petition till the date of realisation within two months from the date of receipt of copy of this judgment.

14. Out of the enhanced compensation Rs.40,000/- with proportionate interest is ordered to be invested in the name of the claimant in F.D. in any nationalised bank for a period of three years with a right of option to withdraw interest periodically and remaining amount is ordered to be released in favour of the claimant.

No order as to costs.

Sd/-  
JUDGE

Vb/-