

IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 21ST DAY OF MARCH, 2023

BEFORE

THE HON'BLE MR. JUSTICE G. BASAVARAJA

MFA.No.201858/2016 (MV)

BETWEEN

CHANNAPPA S/O SHANKREPPA BALBATTI
AGED 52 YEARS, OCC:AGRICULTURE NOW NIL,
R/O VILLAGE MANDEWAL
TQ:JEWARGI DIST:GULBARGA

...APPELLANT

(BY SRI.SANJEEV PATIL, ADVOCATE)

AND:

1. PRAKASH S/O KUNDANMAL JAIN
AGED MAJOR, OCC:BUSINESS
OWNER OF TANKER BEARING REGN.
NO.MH-13/AX-2246
R/O NO. 3875/2A, EKTA COLONY,
SOLAPUR ROAD, BARSIDIST:SOLAPUR
MAHARASHTRA-413401

2. THE DIVISIONAL MANAGER
UNITED INDIA INSURANCE CO.LTD
DIVISIONAL OFFICE
DR.JAWALI COMPLEX, SUPER MARKET
GULBARGA-585101.

.....RESPONDENTS

(BY ANURADHA M DESAI, ADVOCATE FOR R2
NOTICE TO R1 DISPENSED WITH)

THIS MFA FILED U/S. 173(1) OF MV ACT, PRAYING TO- MODIFY THE JUDGMENT AND AWARD DATED- 21.05.2016, PASSED BY THE LEARNED SENIOR CIVIL JUDGE AND MACT JEWARGI, IN MVC NO.244/2014, BY ENHANCING THE COMPENSATION AMOUNT FROM RS.1,20,210/- TO 16,20,120/-.

THE ABOVE MISCELLANEOUS FIRST APPEAL HAVING BEEN HEARD ON 09.03.2023 AND RESERVED FOR JUDGMENT, COMING ON FOR "PRONOUNCEMENT OF JUDGMENT" THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

This appeal is filed by the claimant seeking enhancement of compensation passed by the Senior Civil Judge and MACT, Jewargi (for short 'Tribunal') in MVC.No.244/2014 dated 21.05.2016.

02. The facts of the case are that on 25.11.2013, at about 07.00 p.m. proceeding on Cart on Sindagi - Jewargi road towards Mandewal, the driver of Tanker bearing Reg.No.MH.13-AX-2246 (for short 'offending vehicle') drove it in a rash and negligent manner and dashed against the cart. As a result, the claimant suffered serious injuries. He claimed that he was treated an inpatient and that he spent money towards his medical treatment.

03. The claim petition was resisted by the respondent Nos.1 and 2 and denied the accident as well as the age and income of the deceased. It also denied the involvement of the offending vehicle.

04. Based on these rival contentions, the claim petition was set down for trial.

05. Based on the oral and documentary evidence, the Tribunal after considering the notional monthly income of the claimant awarded compensation of Rs.1,20,210/-.

06. Being aggrieved by the quantum of the compensation awarded by the Tribunal, the present appeal is filed.

07. The learned counsel for the claimant contended that having regard to the nature of the injuries sustained by the claimant, the Tribunal ought to have awarded adequate compensation.

08. Per contra, the learned counsel for the respondent No.2-insurer supported the judgment and award of the Tribunal and therefore contended that the judgment and award passed by the Tribunal be not disturbed.

09. It is seen that the owner/insurer had not challenged the judgment and award and therefore accepted the liability to pay the compensation. Insofar as claim for compensation is concerned, injuries show that claimant had suffered permanent disability. Considering the nature of injuries, period of treatment, medical bills, I am of the considered opinion that the compensation awarded by the Tribunal deserves to be re-determined and re-calculated as under:-

Sl. No	Heads	Awarded by the Tribunal	Enhanced by this Court
01	Towards pain and suffering	Rs.10,000/-	Rs.30,000/-
02	Medical expenses	Rs.21,330/-	Rs.21,300/-
03	Loss of Amenities	--	Rs.30,000/-
04	Laid up period	Rs.10,000/-	Rs.21,000/-
05	Attendance charges	--	Rs.05,000/-
06	Loss of future earning	Rs.78,880/-	Rs.87,360/-
	Total	Rs.1,20,210/-	Rs.1,94,660/-

10. In view of the above, I proceed to pass the following:

ORDER

- a. The appeal is allowed in part.
- b. The judgment and award passed by the Tribunal in MVC.No.244/2014 dated 21.05.2016 is modified. The compensation of Rs.1,20,210/- awarded by the Tribunal is enhanced to a sum of Rs.1,94,660/-.
- c. The insurer is liable to pay the compensation to the claimant along with interest at the rate of 6% per annum from the date of claim petition till realization.
- d. The insurer is directed to deposit the enhanced compensation within a period of one month from the date of receipt of a certified copy of this judgment.

Sd/-
JUDGE

msr