

IN THE HIGH COURT OF KARNATAKA

CIRCUIT BENCH AT GULBARGA

Dated this the 15TH Day of March, 2013

Before

THE HON'BLE MR JUSTICE HULUVADI G RAMESH

Miscellaneous First Appeal No.30862/2011 (MV)

BETWEEN:

CHAND PASHA S/O. MAHAMMED SAHAB
AGE: 21 YEARS, OCC: LABOUR
R/O. VILLAGE BEMALKHEDA
TQ: HUMNABAD, DIST: BIDAR

...APPELLANT

(BY SRI SANTOSH BIRADAR, ADV.)

AND:

1. M/S. YUKTEE PATEL TRANSPORT PVT. LTD.,
REPRESENTED BY SRI.YUKTEE PATEL
AGE: MAJOR, OCC: BUSINESS
R/O. 13-6-429/2, KANKA DARGA COLONY
BEHIND COCOCOLA COMPANY, RIGN ROAD
KARWAN, HYDERABAD (AP)

2. THE DIVISIONAL MANAGER
ELIANCE GENERAL INSURANCE CO. LTD.,
3RD FLOOR, ABOVE MALIK CARS
3RD STREET, HIMAYAT NAGAR
HYDERABAD - 500029

...RESPONDENTS

(BY SRI C. S. KALBURGI, ADV. FOR R2)

THIS MISCELLANEOUS APPEAL IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 30.11.2010 PASSED IN MVC NO.190/2009 ON THE FILE OF THE PRESIDING OFFICER, FTC-I AND ADDL. MACT AT BIDAR, PARTLY ALLOWING THE CLAIM PETITION AND SEEKING FOR ENHANCEMENT OF COMPENSATION.

THIS FIRST APPEAL COMING ON FOR ORDERS THIS DAY, THE COURT DELIVERED THE FOLLOWING:-

JUDGMENT

This appeal is by the claimant for enhancement of compensation against the award passed by the Presiding Officer, FTC-I and Addl. MACT, Bidar.

2. On 16.04.2008 around 8.30 p.m., the claimant was proceeding from Bemalkheda to Manna EkHELLI in a auto on NH-9, near Khandsari Sugar Factory a lorry bearing No.AP-13/X-5736 came from opposite side in a negligent manner and dashed to the auto. Due to the impact, the claimant sustained grievous injuries and was shifted to hospital.

3. The claimant filed a claim petition for compensation. The matter was contested. The Tribunal

having raised as many as four issues for consideration, held that the accident was due to negligence on the part of the driver of the lorry and awarded total compensation of Rs.1,15,000/- on the following heads:

1. Loss of future income	Rs. 71,280/-
2. Medical expenses and and attendant charges	Rs. 11,000/-
3. Pain and suffering	Rs. 15,000/-
4. Loss of amenities	Rs. 8,000/-
5. Loss of earning during treatment	Rs. 6,000/-
6. Conveyance and nourishment	Rs. 3,000/-
Total	Rs.1,14,780/-

Being not satisfied, the claimant is before this Court seeking for enhancement of compensation.

4. Heard the counsel representing the parties.

5. As per the medical evidence, there is a certificate issued by the District Hospital, Bidar at Ex.P.4 and discharge cards at Exs.P.5 and P.6. The claimant has sustained fracture of tibia and was impatient for 27 days. He has also undergone operation for fixation of nail and there is removal of nail at the Government Hospital, Bidar. The disability is assessed at 39% to the limb and 25% to whole body.

6. Having regard to the nature of injuries suffered, the claimant would be awarded another Rs.12,000/- towards pain and suffering. As the accident is of the year 2008, the income of the claimant is taken between Rs.4,000/- to Rs.4,500/-, in the absence of any evidence, taking the disability to whole body little on the higher side, the claimant would be awarded another Rs.40,000/- towards loss of future earning. The claimant would be awarded another Rs.20,000/- towards loss of amenities and enjoyment in life and another Rs.10,000/- towards diet, attendant, conveyance and medical expenses. Thus, the claimant would be awarded

Rs.82,000/- over and above what has been awarded by the Tribunal with 6% interest form the date of petition till deposit.

The appeal filed by the claimant is allowed in part.

The insurer to deposit the award amount within three months.

**Sd/-
JUDGE**

Srt