



**IN THE HIGH COURT OF KARNATAKA,
KALABURAGI BENCH
DATED THIS THE 18TH DAY OF APRIL, 2024
BEFORE**

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA
MISCL. FIRST APPEAL NO.202313 OF 2018 (MV-I)

BETWEEN:

NARASAPPA @ THADIBIDI NARASAPPA
S/O THADIBIDI MALLAPPA @ MALLAPPA,
AGE: 31 YEARS,
OCC: SHEPAHERD & BUSINESS,
R/O PEDDA PARLA MANDALAM, UTKOOR,
TQ: MAKTHAL, DIST: MEHABOOB NAGAR,
NOW R/O YERAMARUS,
TQ: & DIST: RAICHUR-585 401.

...APPELLANT

(BY SRI BABU H. METAGUDDA, ADVOCATE)

AND:

1. ANAND S. KATAMBALLI
S/O SHARANAPPA,
AGE: MAJOR,
OCC: DRIVER OF LORRY NO.KA-48/4641,
R/O NANDAWADGI, TQ: HUNGUND,
DIST: BAGALKOT-585 401.
2. BHIMANAGOUDA V. PATIL
S/O VITHALGOUDA,
AGE: MAJOR,
OCC: ONWER OF LORRY NO.KA-48/4641
R/O ARALIKATTI, TQ: MUDHOL,
DIST: BAGALKOT-585 401.
3. THE MANAGER,
SHRIRAM GENERAL INSURANCE CO. LTD.,
S-3, 3RD FLOOR, MONARCH CHAMBER,





INFANTRY ROAD, SHIVAJI NAGAR,
BANGALORE-500 082.

...RESPONDENTS

(SRI SUDARSHAN M., ADVOCATE FOR R3;
V/O DTD. 09.07.2019, NOTICE TO R1 & R2 DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VECICLES ACT, PRAYING TO ALLOW THE APPEAL AND MODIFY THE JUDGMENT AND AWARD DATED 16.07.2018 PASSED IN MVC NO.398/2016 BY THE II ADDL. DISTRICT AND SESSIONS JUDGE AND MACT AT RAICHUR AND ENHANCE THE COMPENSATION FROM RS.4,28,100/- WITH 8% INTEREST TO RS.14,99,000/- WITH 12% INTEREST.

THIS APPEAL COMING ON FOR FINAL HEARING, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

Heard Sri Babu H. Metagudda, learned counsel for the appellant as well as Sri Sudarshan M., learned counsel appearing for respondent No.3.

2. Seeking enhancement of compensation, the present appeal is preferred by the claimant in MVC No.398/2016, which stood pending before the Motor Accident Claims Tribunal, Raichur. The Tribunal through the award dated 16.07.2018, granted a sum of Rs.4,28,100/- as compensation as against the claim for Rs.24,50,000/-.



3. Making his submission with regard to the merits of the matter, Sri Babu H. Metagudda, learned counsel for the appellant on this day submits that the appellant as a shepherd was earning Rs.20,000/- per month. But, the Tribunal took the notional income of the appellant as Rs.6,000/- per month, which is unjustifiable.

4. Admittedly, no substantive proof is produced with regard to the occupation and earnings of the appellant as on the date of the accident. However, considering the fact that the Karnataka State Legal Services Authority is taking the notional income of the claimants in respect of the accidents that occurred in the year 2015 as Rs.8,000/- per month, this Court considers desirable to take the notional income of the appellant as Rs.8,000/- per month.

5. Though the learned counsel for the appellant stated that the disability taken as 14% in respect of whole body is unjustifiable, however, this Court is not inclined to disturb the finding that is given by the Tribunal that the



PW.2 who assessed the disability is not a Neurologist. PW.2 further admitted in his cross-examination that as per CT scan report, the brain, the survival spin, the chest and the pelvis are normal. Therefore, the disability is to be taken as 14% in respect of the whole body, as assessed by the Tribunal. Thus, without disturbing the other parameters i.e., multiplier to be applicable as '17', however, adding 40% towards future prospects, the loss of earnings due to disability, if calculated, comes to Rs.3,19,872/- (Rs.8,000 + 40% x 12 x 17 x 14%).

6. Having taken the notional income as Rs.8,000/- per month and considering the fact that the appellant sustained grievous injury in his occipital region and took treatment as inpatient for about 11 days, this Court is of the view that the appellant would not have attended his normal pursuits at least for a period of three months. Therefore, the loss of income during laid up period comes to Rs.24,000/-.



7. The compensation awarded by the Tribunal under all other heads is justifiable.

8. Thus, the compensation, which the appellant is entitled to under different heads would be as under:

Sl. No.	Heads	Amount awarded by the Tribunal	Amount awarded by this Court
1.	Pain and Suffering	Rs.40,000/-	Rs.40,000/-
2.	Medical expenses	Rs.1,49,745/-	Rs.1,49,745/-
3.	Food, Nourishment and conveyance	Rs.25,000/-	Rs.25,000/-
4.	Attendant charges	Rs.10,000/-	Rs.10,000/-
5.	Loss of income during laid up period	Rs.12,000/-	Rs.24,000/-
6.	Loss of future earnings	Rs.1,71,360/-	Rs.3,19,872/-
7.	Loss of amenities	Rs.20,000/-	Rs.20,000/-
	Total Rounded off to	Rs.4,28,105/- Rs.4,28,100/-	Rs.5,88,617/-

9. In the light of the foregoing discussion, the following:



ORDER

- i. The appeal is allowed in part.
- ii. The amount awarded as compensation by the Motor Accident Claims Tribunal, Raichur through orders in MVC No.398/2016 dated 16.07.2018 is enhanced from Rs.4,28,100/- to Rs.5,88,617/-.
- iii. The enhanced amount shall carry interest at the rate of 6% p.a. from the date of petition till the date of deposit.
- iv. The third respondent is directed to deposit the enhanced amount with interest within a period of eight weeks from the date of receipt of copy of this order.
- v. On such deposit, the appellant is permitted to withdraw the entire amount.

Sd/-
JUDGE

LG
List No.: 1 Sl No.: 61