

IN THE HIGH COURT OF KARNATAKA  
CIRCUIT BENCH AT GULBARGA  
DATED THIS THE 30<sup>th</sup> DAY OF MARCH 2010  
BEFORE  
THE HON'BLE MR. JUSTICE A.N. VENUGOPALA GOWDA  
M.F.A.NO.30600/2009 (MV)

BETWEEN:

SOMU S/O DESU CHAWAN,  
AGE:37 YEARS,  
OCC : AGRICULTURE,  
R/O. KESARAL TANDA -4,  
TALUK & DISTRICT BIJAPUR.

... APPELLANT

(BY SRI. BAPUGOUDA SIDDAPPA, ADVOCATE)

AND

1. BASAYYA S/O MADIVALAYYA LADDIMATH,  
AGE : MAJOR, OCC: OWNER OF VEHICLE  
R/O. MATHAPATI GALLI,  
NEAR GACCHINAMATH COLONY,  
BIJAPUR - 586101.

2. THE MANAGER  
ORIENTAL INSURANCE CO LTD  
S S FRONT ROAD  
BIJAPUR - 586101.

... RESPONDENTS

(BY SMT. SUMITRA H., ADVOCATE FOR R2 & NOTICE TO  
R1 IS DISPENSED WITH)

MFA FILED U/S 173(1) OF MV ACT AGAINST THE  
JUDGMENT AND AWARD DATED:24.01.2009 PASSED IN MVC  
NO.321/2006 ON THE FILE OF MEMBER MACT-3, BIJAPUR  
PARTLY ALLOWING THE CLAIM PETITION FOR

COMPENSATION AND SEEKING ENHANCEMENT OF  
COMPENSATION.

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

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

This appeal is by the petitioner to award just compensation contending that, the award made by the Tribunal is meager.

2. Heard the learned counsel on both sides and perused the records.

3. Petitioner has deposed as PW.1. He has produced the wound certificate as at Ex.P.4. There is no denial of the accident, on account of the rash and negligent driving of the vehicle, which had been insured by the 2<sup>nd</sup> respondent. On account of the inconsistency in the evidence of PW2, with reference to the documentary evidence, the Tribunal held that no amount can be granted under the head 'loss of future income'. However, the Tribunal has granted certain sum under the head 'loss of amenities'.



4. Considering the nature of injuries, as could be found from the evidence of PWs.1 & 2 and Ex.P.4 as well as the disability certificate as at Ex.P.6 supported by the X-ray film – Ex.P.7, in my opinion there is fracture of lower end of left fibula, apart from other injuries. The appellant being an agriculturist, will have to do hard work, which he cannot undertake in full measure, on account of the accidental injury. In the circumstance, there is a partial permanent disability at least to an extent of 10% to the whole body, which will reduce the future earning capacity of the appellant by Rs.300/- p.m.,

5. The just compensation, which the appellant is entitled to is as follows :

1. Pain & suffering	:	Rs.20,000/-
2. Medical expenses	:	Rs. 3,000/-
3. Incidental charges	:	Rs. 3,000/-
4. Loss of income during laid up period (Rs.3,000 X 2)	:	Rs. 6,000/-
5. Loss of future income (Rs.300 X 12 X 16)	:	Rs.57,600/-
6. Loss of amenities	:	<u>Rs. 5,000/-</u>
Total :		<u>Rs.94,600/-</u>



In the result, the appeal is allowed in part. In modification of the impugned award, the petitioner is held entitled to compensation of Rs.94,600/-, as against Rs.41,000/-. The enhanced compensation shall carry interest @ 6% p.a., from the date of petition till deposit.

**Sd/-  
JUDGE**

INV