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**IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT DHARWAD**

DATED THIS THE 30TH DAY OF SEPTEMBER, 2011

BEFORE

THE HON'BLE MRS.JUSTICE MANJULA CHELLUR

M.F.A.No.11756/2007 (MV)

BETWEEN:

ANAND S/O NEELAKANTHARAO KULKARNI
AGE:51 YEARS,OCC:SERVICE,
R/O.C/O 2ND FLOOR,14/2,
"SHIVASHAKTI" BUILDING,
SWAMI VIVEKANANDA ROAD,
'A'EXTENSION, ANGOL,
BELGAUM-590001.

... APPELLANT

(BY SRI.SHRIHARSH A.NEELOPANT, ADV)

AND:

1. KRISHNAKUMAR S/O NAGAPPA PAI
MAJOR,OCC:BUSINESS AND PARTNER OF
M/S N.S PAI AND SONS,
DHARWAD ROAD, BELGAUM-1,
(OWNER OF PAI ASSOCIATES BUS BEARING
NO.KA 22/A-3655)

2. THE DIVISIONAL MANAGER
THE NEW INDIA ASSURANCE CO.LTD.,
SRI.BHAVANI CHAMBERS,2ND FLOOR,
RAMLINGKHIND GALLI, BELGAUM-1.

...RESPONDENTS

(BY SRI.L.B.MANNODDAR, ADV. FOR R2,
R1 NOTICE DISPENSED WITH)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED: 22.11.2006 PASSED IN MVC NO.
124/2005 ON THE FILE OF THE PRESIDING OFFICER, FAST

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TRACK COURT-II, MEMBER, ADDL. MACT, BELGAUM, 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:

JUDGMENT

The appellant has approached this court seeking enhancement of compensation as against the award of the Tribunal at Rs.63,500/-.

2. The occurrence of the accident, sustenance of fracture of 9th rib on the left side and right talus bone is not in dispute. The appellant is Accountant by occupation. Though the appellant was able to bring on record that he sustained 20% permanent disability of the right lower limb on account of the restriction of the movement of the right foot, no loss of future income came to be awarded. Therefore, the present appeal is filed.

3. It is well settled now that in a case of permanent disability, the Courts have to see how this permanent



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disability sustained by the injured would create occupational hazard. In other words, how it would reduce the earning capacity of the injured. The moment doctor comes out with percentage of disability, it would not mean that the future loss of income would be proportionate to the permanent disability suffered by the injured. Depending upon the nature of avocation or occupation, the disability would come in the way of discharging the occupation efficiently. In the present case, the injured being an Accountant, we are at loss to understand how this restriction of movement of the right lower limb would come in the way of his work as an Accountant which requires sitting across the table and attending to the accounts. No doubt, it would come in the way of enjoyment of his day to day life and the Tribunal has adequately compensated the same by awarding Rs.25,000/-.



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4. The compensation under medical and other incidental expenses seems to be on the lower side. The restriction of the left lower limb near foot would trouble him as age advances which compels him to take medical treatment. Therefore, this court is of the opinion, another Rs.15,000/- as global compensation would be just and proper in the present appeal.

5. Accordingly, the appeal is allowed in part enhancing the compensation globally by Rs.15,000/- with interest at 6% p.a. from the date of petition till the date of deposit. The Insurance Company to deposit the enhanced amount within six weeks from the date of receipt of copy of this order.

**Sd/-
JUDGE**

Jm/-