

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

Dated this the 28<sup>th</sup> day of October 2011

BEFORE

**THE HON'BLE MR.JUSTICE SUBHASH B.ADI**

Miscellaneous First Appeal No.21510/2010 (MV)

BETWEEN:

Kumar Raghavendra,  
S/o Yallappa Balareddar,  
Age: 8 years, Occ: Student,  
Resident of Yennihosalli,  
Taluk: Ranebennur, Dist: Haveri.  
Since minor represented natural  
Guardian Yallappa Holiyappa  
Balareddar, Age: 40 years,  
Occ: Agriculture, R/o Yennihosalli,  
Tq: Ranebennur, Dist: Haveri.

...Appellant

(By Sri. B.S.Sangati, Advocate)

A N D :

1. Sri Hanumantappa S.Patil,  
Age: 50 years, Occ: Agriculture,  
At. Po: Makaanur, tq: Ranebennur,  
Dist: Haveri.

2. The Divisional Managerr,  
National Insurance Company Ltd.,  
Sujata Talkies Complex,  
P.B.Road, Hubli.

...Respondents

(By Sri. S.V.Yaji, Advocate for R2)  
(R1 – served)

This miscellaneous first appeal is filed under Section 173(1) of the Motor Vehicles Act against the judgment and award dated 06.10.2008 passed in MVC No.70/2004 on the file of the Civil

Judge (Sr.Dn.) and Member, Additional MACT, Ranebennur, 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

This appeal is by the claimant seeking enhancement of compensation awarded by the MACT, Ranebennur, in M.V.C. No.70/2004 dated 6.10.2008. The Tribunal has awarded compensation of Rs.56,500/- with interest at 6% p.a. Being unsatisfied with the same, the claimant is before this Court.

2. It is not in dispute that claimant was 3 years old at the time of the accident. He had suffered fracture of tibia L/3. The doctor has assessed disability at 35% to the limb. The Tribunal has taken the whole body disability at 10%, notional income at Rs.15,000/- per annum and has awarded compensation as under:

|  |              |
|--|--------------|
| 1. Pain and suffering                      | Rs.20,000-00 |
| 2. Medical expenses                        | Rs. 3,000-00 |
| 3. Food, nourishment and attendant chares  | Rs. 3,000-00 |
| 4. Loss of future income due to disability | Rs.22,500-00 |
| 5. Loss of amenities of life               | Rs. 8,000-00 |
|  | -----        |
| Total                                      | Rs.56,500-00 |
|  | -----        |



3. Considering the age of the claimant, who was 3 years old at the time of the accident and the likelihood of recovery and union of the fracture, there is no loss of income as such. However, towards pain and suffering, loss of income of parents during laid-up period, incidental expenses and loss of amenities, the compensation awarded by the Tribunal is on the lower side. Having regard to the same, an additional sum of Rs.10,000/- is awarded towards pain and suffering and additional sum of Rs.10,000 towards loss of amenities; Rs.12,000/- towards loss of income of parents during laid-up period; Rs.5,000/- towards incidental expenses; and Rs.15,000/- towards disability. In all, the claimant is entitled to a sum of Rs.52,000/- over and above the compensation awarded by the Tribunal with interest.

Accordingly, appeal is allowed in part.

Sd/-  
JUDGE

Kms/-