

IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT DHARWAD

DATED THIS THE 30TH DAY OF MARCH, 2012

BEFORE

THE HON'BLE MR.JUSTICE SUBHASH B. ADI

MISCELLANEOUS FIRST APPEAL NO.20324/2009(MVC)

BETWEEN:

SRI. DEEWANSAB,
S/O MAKTUMSAB MURTOJI
AGE 26 YRS, OCC: NIL,
R/O MADDI GALLI, RAMDURG,
TAL. RAMDURG, DIST. BELGAUM.

(BY SRI. SANTOSH B. MALAGOUDAR, ADV) ... APPELLANT

AND:

1. SRI. SIDDAPPA,
MAYAPPA METAGUDDA
AGE 49 YRS., OCC: AGRICULTURE,
CONTRACTOR, R/O KALMAD
TQ. RAMDURG, DIST. BELGAUM.
OWNER OF THE TRACTOR AND TRAILOR
BEARING REG.NO.KA.24.T.2791 AND 2792.

2. THE MANAGER,
NEW INDIA ASSURANCE CO. LTD.,
RATHOD BUILDING, BUS STAND ROAD,
TAL: GOKAK DIST. BELGAUM.
(INSURER OF THE TRACTOR AND TRAILOR BEARING
REG.NO.KA.24.T.2791 AND 2792)

(BY SRI. G.N.RAICHUR, ADV. FOR R2.
SRI. RAVINDRA R. MANE, ADV FOR R2.)

...RESPONDENTS

THIS APPEAL IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 17/10/2008 PASSED IN MVC NO.2105/2005 ON THE FILE OF THE CIVIL JUDGE(SR.DN) AND MEMBER, ADDL. MACT, RAMDURG, PARTLY ALLOWING THE PETITION FILED UNDER SECTION 156 OF MV ACT SEEKING ENHANCEMENT.

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

JUDGMENT

This appeal by the claimant seeking enhancement of compensation. The Tribunal has awarded compensation of Rs.1,76,000/- with interest.

2. It is not in dispute that the claimant has suffered 7 injuries as per Ex.P-29. They are as under:

1. Compound Grade-I communiated fracture upper end of shfts of both bones of the right leg.
2. Fracture lower end of the right fibula bone.
3. Compound type-ii oblique fracture upper end and middle 1/3rd of the left tibia and fibula bones.
4. Fracture lower end of the left fibula bone.
5. Fracture left medial malleulos of the left ankle joint.
6. Fracture of petreus temporal bone of the skull.



7. Crush injury of the left foot-amputation of the middle and distal phalanges of the 3rd, 4th and 5th toes of the left foot.

3. The doctor has assessed the disability of each of the part. The Tribunal has taken the disability at 20% to the whole body. Even assuming 20% disability is reasonable, reasonable income should have been taken. The claimant was working as a coolie. The accident is of the year 2004. Taking income at Rs.4,000/-, the claimant is entitled for $\text{Rs.}800 \times 12 \times 18 = 1,72,800/-$ towards loss of future income as against Rs.1,23,000/- i.e., additional compensation of Rs.49,800/- rounded to Rs.50,000/- and the claimant is entitled for Rs.16,000/- towards loss of income during laid up period + Rs.15,000/- towards loss of amenities + Rs.10,000/- towards incidental expenditure. In all the claimant is entitled for additional compensation of Rs.91,000/- with interest.

Accordingly, the appeal is allowed in part.

kmv

Sd/-
JUDGE