

IN THE HIGH COURT OF KARNATAKA  
CIRCUIT BENCH AT DHARWAD

DATED THIS THE 30<sup>TH</sup> DAY OF MARCH, 2012

BEFORE

THE HON'BLE MR.JUSTICE SUBHASH B. ADI

MISCELLANEOUS FIRST APPEAL NO.20983/2008(MV)

BETWEEN:

SHRISHAILAPPA  
S/O ANDANAPPA HULYAL  
AGE 50 YRS., OCC: TRANSPORT BUSINESS  
PRESENT NIL, R/O BEVOOR  
TQ. AND DIST. BAGALKOT.

(BY SRI. F.V. PATIL, ADV)

... APPELLANT

AND:

1. SANJAY MURALIDHAR NAIDU  
AGE MAJOR, OCC: OWNER OF LORRY  
BEARING NO.KA.01/B, 7562, R/O JCW ROAD,  
UNITED BUILDING, BANGALORE 560 002.

2. THE DIVISIONAL MANAGER,  
THE NEW INDIA ASSURANCE CO. LTD.,  
OPPOSITE TO KITTAL COLLEGE,  
P.B. ROAD, DHARWAD.

(BY SRI. V.R. DATAR, ADV FOR R2.)

...RESPONDENTS

THIS APPEAL IS FILED UNDER SECTION 173(1) OF MV ACT 1988 AGAINST THE JUDGMENT AND AWARD DATED 09/09/2008 PASSED IN MVC NO.659/2006 ON THE FILE OF THE MEMBER MACT NO.II BAGALKOT PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL AND MISC.CVL. COMING ON FOR ORDERS,  
THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

This appeal is by the claimant seeking enhancement of compensation. The Tribunal has awarded compensation of Rs.1,32,950/- with interest.

2. It is not disputed that the claimant suffered 5 injuries. Among 5 injuries suffered, the fracture of femur upper middle 1/3<sup>rd</sup> is grievous in nature and the claimant was treated as inpatient from 24/09/2006 to 04/10/2006. The doctor has opined that there is disability of 30% to the limb. However, the Tribunal has taken the functional disability at 20% and the income at Rs.3,000/- and awarded compensation as under:

Pain and suffering	Rs. 20,000/-
Medical expenses	Rs. 27,550/-
Special nourishment and Attendants charges	Rs. 1,100/-
Transportation charges	Rs. 5,100/-



Loss of future income, physical Disability and loss of amenities	Rs. 79,200/- -----
Total	Rs.1,32,950/- -----

3. The disability taken by the Tribunal appears to be reasonable. However, income should have been taken at least at Rs.4,000/-. Hence, the claimants are entitled to  $800 \times 12 \times 11 = \text{Rs.}1,05,600/-$ . Thus, the claimants are entitled to compensation of Rs.1,05,600/- towards loss of income as against Rs.79,200/- i.e., additional compensation of Rs.26,400/- + Rs.15,000/- towards pain and suffering + Rs.15,000/- towards loss of amenities and towards loss of income during laid up period, the claimants are entitled for Rs.12,000/-. In all, the claimants are entitled to Rs.68,400/- rounded to Rs.69,000/- over and above the compensation awarded by the Tribunal.

Accordingly, the appeal is allowed in part.

kmv

Sd/-  
JUDGE