

IN THE HIGH COURT OF KARNATAKA  
DHARWAD BENCH

DATED THIS THE 30<sup>TH</sup> DAY OF JUNE, 2016

BEFORE

THE HON'BLE MRS. JUSTICE RATHNAKALA

M.F.A. NO. 24401/2010 (MV)

**BETWEEN:**

RAMA S/O LAXMAN LUMYAGOL  
AGE: 38 YEARS, OCC: VEGETABLE VENDOR,  
R/O VAIBHAVANAGAR,  
BELGAUM.

: APPELLANT

(BY SRI. JAGADISH PATIL, ADVOCATE)

**AND:**

1. SRI. VILAS MARUTI JADHAV  
H.NO.1162, MASIDE GALLI,  
AT POST: YAMAKANAMARADI,  
TQ: HUKKERI, DIST:BELGAUM,  
(OWNER OF TATA 407 GOODS TEMPO  
BEARING NO.KA-23/8286)

2. THE ORIENTAL INSURANCE COMPANY LTD.  
MERCHANT CO-OPERATIVE BANK BUILDING,  
BAILHONGAL-591102,  
DIST-BELGAUM.

: RESPONDENTS

(BY SRI. LAXMAN B. MANNODDAR, ADV. FOR R2)  
(R1-SERVED)

THIS MFA FILED UNDER SECTION-173(1) OF THE  
MOTOR VEHICLES ACT AGAINST THE JUDGMENT AND

AWARD DATED 30.06.2010 PASSED IN MVC NO.2309/2007 ON THE FILE OF THE III ADDL. CIVIL JUDGE (SR.DN.) & ADDL. MACT, BELGAUM, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

### **JUDGMENT**

Sri. Laxman B. Mannoddar, learned counsel takes notice for respondent No.2.

2. Though the matter is listed for admission, it is taken up for final disposal, after hearing both the counsels.

3. The appellant is aggrieved by the inadequate compensation awarded in his favour by the III Addl. Civil Judge (Sr.Dn.) & Addl. MACT, Belgaum (for short, 'the Tribunal') on his application in MVC No.2309/2007 under Section 166 of MV Act in respect of the injuries suffered by him in a vehicular accident that occurred on 31.07.2007.

4. The contention of the appellant was, on the above said date, he was proceeding in a Tata 407 goods Tempo bearing registration No.KA-23-8286 along with vegetables to the

market by paying hire charges; near Honaga Bridge on NH4 road, the driver of the tempo lost control over the vehicle because of the excessive speed, the vehicle turned turtle. As a result, he suffered fracture of calcareous right side.

The claim was contested by the insurer. The claimant in respect of physical disability, had examined the doctor who had assessed the percentage of disability at 25%. His case was, he was earning a sum of Rs.5,000/- per month by wholesale vegetable business.

5. The Tribunal on overall consideration of the material on record, awarded a sum of Rs.1,11,320/- with interest at 6% per annum from the date of petition till date of payment as per following break-up:

Injury, pain and agony	Rs.25,000/-
Medical expenses	Rs.10,000/-
Nursing, attendants & nourishment	Rs.3,000/-
Loss of earning during treatment	Rs.6,000/-
Loss of future earning	Rs.40,320/-
Loss of amenities	Rs.25,000/-
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Total	Rs.1,11,320/-
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6. Sri. Jagadish Patil, learned counsel for the appellant submits that while capitalising the compensation, the Tribunal assessed his monthly income at Rs.3,000/- only, which has substantially reduced the compensation amount. That apart, the amount awarded towards loss of income during laid-up period is also on a lower side. Hence, the impugned judgment and award of the Tribunal may be modified by awarding just and reasonable amount.

7. Sri. Laxman B. Mannoddar, learned counsel for respondent No.2 submits that on the showing of the claimant himself, he is a wholesale vegetable vendor. The fracture of calcareous has no bearing on his income. Whatever compensation awarded by the Tribunal is just and reasonable and does not call for interference.

8. In the light of the above submissions, I have perused the impugned judgment and award and also lower court records. Having regard to the age of the claimant, nature of injuries suffered by him and also date of accident, the

compensation awarded under all heads is just and proper and no interference is warranted in this appeal.

Accordingly, the appeal stands rejected.

Sd/-  
JUDGE

JTR