

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF FEBRUARY 2016

PRESENT

THE HON'BLE MR.JUSTICE N.K. PATIL

AND

THE HON'BLE MRS.JUSTICE RATHNAKALA

MISCELLANEOUS FIRST APPEAL NO.752/2016 (MV)

BETWEEN:

T.G.SUDHAKARAN S/O LATE T.S.GOVINDAN
AGED 52 YEARS
R/AT # 109/2, ROBIN VILLA,
9TH CROSS, 1 MAIN, NEAR S.S.BAKERY,
A.NARAYANAPURA, DOORAVANINAGAR,
BENGALURU NORTH,
BENGALURU – 560 016
PERMANENT ADDRESS: NO.770/4,
9TH STREET, J.C.F. SOUTH COLONY,
CHENNAI.

...APPELLANT

(BY SRI D.S.SRIDHAR, ADV.)

AND:

1. KESHAVAMURTHY K.,
S/O KRISHNAPPA, MAJOR,
R/AT NO.86, VASANTHAPURA,
SUBRAMANYAPURA POST,
BENGALURU – 560 061.
2. M/S. NATIONAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE NO.3,
SHRI LAKSHMI COMPLEX,
15-17-19, ST.MARK'S ROAD,
BENGALURU – 560 001
REPRESENTED BY ITS MANAGER.

...RESPONDENTS

THIS MISC. FIRST APPEAL IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT & AWARD DATED 30.09.2015 PASSED IN MVC NO.2212/2014 ON THE FILE OF THE XIII ADDITIONAL SMALL CAUSE JUDGE AND MEMBER, MACT, BANGALORE (SCCH-15), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS MISC. FIRST APPEAL COMING ON FOR ADMISSION THIS DAY, **N.K.PATIL J.**, DELIVERED THE FOLLOWING:

J U D G M E N T

Though this appeal is posted for Admission, same is taken up for final disposal with the consent of the learned Counsel appearing for the parties.

This appeal by the claimant is directed against the impugned judgment and award dated 30.09.2015 passed in MVC No.2212/2014 on the file of the XIII Addl. Small Cause Judge & Member, MACT, Bangalore(SCCH-15) (hereinafter referred to as 'Tribunal' for short) for enhancement of compensation.

2. The Tribunal by its judgment and award has awarded a sum of Rs.2,81,147/- with interest at 9% p.a., from the date of petition till its realization, on account of the injuries sustained by the appellant in the road traffic accident. He has presented this appeal on the ground that the quantum of compensation awarded by the Tribunal is inadequate and it requires enhancement.

3. We have heard the learned counsel for the appellant/claimant.

4. The brief facts of the case on hand are:

The appellant claims that he was aged about 55 years at the time of the accident and hale and healthy. That on 23.01.2014, at about 12 noon, he was proceeding as inmate in the Car bearing No.KA-05-AD-3225 along with his friends from Bengaluru

towards Srirangapatna. When they came near Golf Eadan Garden, Mayaganahalli, Ramangara Taluk, the driver of the said Car drove the same in a rash and negligent manner and dashed against Tractor and Trailer bearing registration No.KA-05-T-2927/2928 at its hind portion. As a result, he sustained avulsed laceration of face involving nose and lips over area, bone deep with fracture of facial bones, bilateral maxiall, ethnoid, spheroid and frontal sinuses with haemosinus, nosal bone fracture. Fracture of outer table of body of left mandible. He took treatment in Pulse Multi Speciality Hospital, Bengaluru. He was an inpatient from 23.01.2014 to 31.01.2014. Therefore, the appellant was constrained to file a claim petition under Section 166 of MV Act, before the Tribunal claiming compensation of Rs.20,00,000/-.

5. The said claim petition had come up for consideration before the Tribunal. The Tribunal after hearing both sides and after assessing the oral and documentary evidence, has allowed the claim petition in part and awarded a compensation of Rs.2,81,147/- with interest at 9% p.a. from the date of petition till its realization. Being dissatisfied with the quantum of compensation awarded by the Tribunal, the appellant has presented this appeal, seeking enhancement of compensation.

6. Sri. D.S. Sridhar, learned counsel for the appellant, at the outset, submitted that the Tribunal has erred in not awarding reasonable compensation under the head of pain and suffering which is on the lower side. The Tribunal erred in awarding meager compensation towards conveyance, nourishing food and attendant charges since the appellant was an

inpatient from 23.01.2014 to 31.01.2014. Therefore, he submitted that the impugned judgment and award is liable to be modified by enhancing just and reasonable compensation.

7. After careful consideration of the submission made by the learned counsel appearing for the appellant and on perusal of the material available on record, including the impugned judgment and award passed by the Tribunal, the only point that arises for consideration is:

“Whether the quantum of compensation awarded by the Tribunal is just and reasonable?”

8. The injuries sustained in the road traffic accident that occurred on 23.01.2014, at about 12 noon are not disputed. It is further not in dispute that the appellant took treatment for 9 days as

inpatient and he might have spent some amount towards medical expenses, food, attendant and nourishment expenses. Taking into consideration oral and documentary evidence and other material on record, the Tribunal has rightly awarded just and reasonable compensation towards pain and suffering, loss of income during laid-up period, conveyance, nourishing food and attendant charges, medical expenses and loss of amenities and comfort.

The reasoning given by the Tribunal is after due appreciation of the oral and documentary evidence and also other material on file in paragraphs-34 to 36 of the judgment. Hence, we do not find any illegality or irregularity in the finding given by the Tribunal. Therefore, we are of the view that the compensation awarded by the Tribunal in this case is just and proper and does not call for interference.

9. In the light of the facts and circumstances referred above, the appeal filed by the appellant-claimant is dismissed as devoid of merits.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

JTR/-