

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF SEPTEMBER, 2016

BEFORE

THE HON'BLE MRS. JUSTICE S.SUJATHA

M.F.A.No.10910/2011(MV)

Between:

Sri. J.M. Manjunath
Son of Mudupanna
Now aged about 26 years
R/at No.34, Bellulli Building
Astalakshmi Layout, Puttenahalli
JP Nagar 6th Phase
Bangalore – 78. ...Appellant

(By Sri. D. Manmohan, Adv.)

And:

1. Sri. B. Muthukumaran
S/o V. Balasubramanian
Aged major, R/at No.422
Mahaveer Calyx, Sy. No.45
Nyanappanahalli Village, Begur Hobli
Bangalore – 76
2. The Manager (Legal)
M/s. ICICI Lombard General
Insurance Co. Ltd
No.89, SVR Complex, 2nd Floor
Hosur Main Road, Madiwala
Bangalore – 560 068. ...Respondents

(By Sri. N.C. Nagesh Kumar, Adv. for R-1,
Sri. A.N. Krishnaswamy, Adv. for R-2)

This MFA is filed under Section 173(1) of MV Act against the judgment and award dated 27.05.2011 passed in MVC No.5399/2010 on the file of XXII Additional Small Causes Judge & Member MACT, Bangalore partly allowing the claim petition for compensation and seeking enhancement of compensation.

This appeal coming on for hearing, this day, the Court delivered the following:

JUDGMENT

This appeal is directed against the judgment and award passed by Motor Accident Claims Tribunal, Bangalore ('Tribunal' for short) in MVC.No.5399/2010.

2. The claim petition was preferred by the appellant/claimant claiming compensation, contending that he sustained grievous injuries in the road traffic accident on 11.06.2010 owing to the actionable negligence of the driver of motorcycle bearing Reg. No. KA-05-HL-2569 (offending vehicle), while he was proceeding on his motorcycle bearing Reg. No. KA-05-HE-9270. The insurer of the offending vehicle entered appearance and contested the matter. The Tribunal after appreciating the evidence placed on record,

awarded a total compensation of Rs. 1,75,000/- with interest at 6% p.a.

3. Being aggrieved, the appellant is before this Court seeking for enhancement of compensation. Having heard the learned counsel for the parties and perusing the material on record, it emerges that the appellant was aged about 25 years at the time of the accident. Though, it was contended that he was working with M/s. Mohan and Company (Export) Pvt. Ltd., Singasandra Unit and drawing a gross salary of Rs. 15,000/- p.m. In the absence of the author of the salary certificate at Ex.P.11 and Copy of the Employment ID Card at Ex.P.15, being not examined, the same was not considered to be the reliable evidence. The nature of the injuries sustained by the appellant as per the wound certificate at Ex.P.3 discloses that the claimant had suffered the fracture of left patella, fracture of right distal end radius and wedge compression and fracture at L1, L2 and L3 spine. The material on records makes it clear that the appellant was treated as an in-patient at Fortis Hospital, Bangalore

from 11.06.2010 to 15.06.2010 and subsequently from 26.07.2010 to 27.07.2010 and has undergone surgery. Considering the grievous nature of the injuries sustained by the appellant, the Doctor had assessed the disability to the extent of 27% to the whole body of the injured. In view of the admitted fact that the appellant is still working and drawing the same salary, the Tribunal arrived at a conclusion that there was no necessity to award compensation towards loss of future earnings. A sum of Rs. 35,000/- was awarded towards the head - disability. It is obvious that the appellant is working in a private company and the impact of the injury would affect his future life bringing down the earning capacity of the appellant. Considering the nature and gravity of the injuries being grievous, this court is of the considered opinion that a sum of Rs. 60,000/- would be just and reasonable compensation towards the head - disability; a sum of Rs. 35,000/- is awarded towards pain and sufferings; a sum of Rs. 25,000/- is awarded towards loss of amenities and enjoyment of life; the total

compensation awarded by the Tribunal is modified as under:

Pain and Suffering	- Rs. 35,000/-
Medical expenses	- Rs. 60,000/-
Loss of earning during the period of treatment	- Rs. 20,000/-
Conveyance & Nourishment	- Rs. 10,000/-
Disability	- Rs. 60,000/-
Future Medical Expenses	- Rs. 20,000/-
Loss of amenities & enjoyment of life	- Rs. 25,000/-
TOTAL	- Rs. 2,30,000/-

4. The appellant shall be entitled to a total compensation of Rs. 2,30,000/- as against Rs. 1,75,000/- awarded by the Tribunal with interest at 6% p.a. from the date of petition till the date of deposit.

Appeal stands allowed to the extent indicated above.

**Sd/-
JUDGE**

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