

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST 2018

PRESENT

THE HON'BLE MR.JUSTICE RAGHVENDRA S. CHAUHAN

AND

THE HON'BLE MR. JUSTICE H. T. NARENDRA PRASAD

M. F. A. No. 3258 of 2014 (MV)

BETWEEN:

MRS. S. SANDHYA
D/O. SOMA SUNDARAM,
AGED ABOUT 29 YEARS,
R/O AT NO.196/2, SUJATHA BUILDING,
2ND FLOOR, 3RD MAIN, 10TH CROSS,
INDUSTRIAL AREA, BEGUR ROAD,
BOMMANAHALLI, BANGALORE-560068,

PERMANENT ADDRESS
NO.102, 3RD MAIN, MADIWALA,
BANGALORE-560068.

... APPELLANT

(BY SRI SAMPATH BAPAT, ADV.)

AND:

1. THE MANAGER
IFFCO-TOKIO GENERAL INSURANCE CO. LTD.,
NO.42, 2ND FLOOR, CRISTU COMPLEX,
NEAR MONDOVI MOTORS,
LAVELLE ROAD,
BANGALORE-560001.

2. M. ANIL KUMAR
S/O. MUNI REDDY,
MAJOR, R/O. NO.109, GB PALYA,
HOSUR MAIN ROAD,
BANGALORE-560 068

... RESPONDENTS

(BY SRI B. PRADEEP, ADV. FOR R-1;
NOTICE TO R-2 IS DISPENSED WITH
V/O DATED 17.9.2014)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 03.12.2013 PASSED IN MVC NO.3222/2011 ON THE FILE OF THE XVIII ADDITIONAL JUDGE, COURT OF SMALL CAUSE, MEMBER, MACT-4, BANGALORE, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS MFA COMING ON FOR ADMISSION THIS DAY, **RAGHVENDRA S. CHAUHAN J**, DELIVERED THE FOLLOWING:

JUDGMENT

Having suffered injuries due to a vehicular accident, having been granted a compensation of Rs.4,31,000/- along with an interest @ 6% per annum from the date of filing of the petition till the date of realization, the appellant has challenged the award dated 03.12.2013, passed by the Motor Accident Claims Tribunal, Court of Small Causes, Bangalore (SCCH-4) before this Court.

2. Briefly the facts of the case are that on 21.02.2011, around 3:30 p.m., the appellant, Ms. S. Sandhya, was going on a motorcycle, as a pillion rider, from Hongasandra to Garvebhavipalya on the Hongasandra Main Road. When she reached near the Sri Ganesha Temple located in Garvebhavipalya, suddenly a water tanker, bearing Registration No.KA-09-C-2799, being driven rashly and negligently, dashed against the motorcycle. Consequently, the appellant sustained grievous injuries on her face, on her liver, and on other parts of her body. Immediately she was rushed to the hospital where she stayed as an inpatient for ten days. But, as she had suffered dislocation of mandibular joints, and deformity of her face, she continued the follow-up treatment till 2013. Having recovered from her injury, she filed a claim petition before the learned Tribunal. In order to support her case, she examined three witnesses, and submitted twenty-four documents. On the other hand, the

Insurance Company neither examined any witness, nor submitted any document. As mentioned above, after appreciating the evidence, the learned Tribunal granted the compensation to the appellant. Hence this appeal before this Court for enhancement.

3. Mr. Sampath Bapat, the learned counsel for the appellant, has raised three contentions before this Court:-

Firstly, despite the fact that the appellant's face has become disfigured, inspite of the fact that it may cause difficulties in her getting married, as the appellant was only 26 years old at the time of the accident, still for the loss of amenities, the learned Tribunal has granted merely a sum of Rs.25,000/-. Therefore, for the loss of marriage prospect, the compensation in the category of 'loss of amenities' should be enhanced by this Court.

Secondly, although Dr. Anand K. (P.W.3) had clearly stated that the appellant would require future medical treatment, which may cost her anywhere from Rs.40,000/- to Rs.50,000/-, still the learned Tribunal has granted merely Rs.30,000/- for the future medical expenses. Therefore the same needs to be enhanced.

Thirdly, despite the fact that the appellant continued to take medical treatment from 2011 to 2013, despite the fact that she had produced medical bills (Ex.P-13) to the tune of Rs.2,17,682.46, the learned Tribunal has granted a compensation of merely Rs.2,20,000/- for the medical expenses, and other incidental expenses. Thus the learned Tribunal has granted merely Rs.3,000/- for the conveyance, special nourishment, and other miscellaneous expenses. Therefore, the compensation for conveyance, special nourishment, and other miscellaneous expenses should be enhanced by this Court.

4. On the other hand, Mr. B. Pradeep, the learned counsel for the respondent No.1, the Insurance Company, has suggested that the compensation may be enhanced by Rs.50,000/-. According to him, the compensation paid for the 'loss of amenities' may be enhanced, but only by Rs.10,000/-. Similarly, compensation in the category of 'future medical expenses' may also be enhanced by Rs.10,000/-

5. Heard the learned counsel for the parties, and perused the impugned award.

6. According to the testimony of Dr. Anand K. (P.W.3), due to the accident, the appellant has suffered deformity of the right ear, and disfigurement of the face. Hence, she would also have difficulty in eating hard food, and in opening her mouth. Considering the fact that there is disfigurement of the face, and deformity of the right ear, obviously, the prospect of a good marriage would be adversely affected. Therefore, an amount of

Rs.25,000/- in the category of 'loss of amenities', is too little. Therefore, this Court enhances the compensation from Rs.25,000/- to Rs.50,000/-.

7. Likewise, according to Dr. Ashok K. (P.W.3), the appellant has to further undergo correctional surgery for the deformities suffered by her. Therefore, even in future, she is likely to entail medical expenses to the tune of Rs.40,000/- to 50,000/-. Considering the fact that the accident had occurred in 2011, considering the fact that prices are galloping, and medical treatment is becoming more and more expensive everyday, a compensation of merely Rs.30,000/- for 'future medical expenses', is also on the lower side. Hence this Court enhances the compensation from Rs.30,000/- to Rs.50,000/- under the said category.

8. Dr. Ashok K. (P.W.3) also informs this Court that the appellant continued to be under treatment from 21.02.2011 till atleast 09.10.2013, when her x-ray was

done. During this period she had repeatedly visited the hospital. He also informs the learned Tribunal that the claimant has difficulty in eating hard food during the period of her treatment. Thus, obviously, the appellant had spent some amount on her conveyance, and on her special nourishment during the said period of treatment. Yet the learned Tribunal has granted merely Rs.3,000/- for conveyance, and special nourishment. Therefore, this Court enhances the amount from Rs.3,000/- to Rs.10,000/-. Thus, the amount payable in the category of 'medical expenses and incidental expenses', is hereby enhanced from Rs.2,20,000/- to Rs.2,27,000/-.

9. For the reasons stated above, this appeal is hereby **allowed**. The impugned award dated 03.12.2013, stands modified as under:

Compensation under different Heads	As awarded by the Tribunal (Rs.)	As awarded by this Court (Rs.)
Pain & Suffering	50,000	50,000
Loss of amenities & happiness	25,000	50,000
Medical and incidental charges	2,20,000	2,27,000
Loss of earnings during the period of treatment	56,000	56,000
Permanent disability	50,000	50,000
Future medical expenses	30,000	50,000
Total	4,31,000	4,83,000

10. The Insurance Company is directed to deposit the entire compensation amount, along with interest at 6% per annum, from the date of filing of the claim petition, till the date of realization, with the learned Tribunal within a period of three weeks from the date of receipt of the certified copy of this judgment. The amount so deposited, shall be released to the appellant,

forthwith, by the learned Tribunal, after verifying her identity.

**SD/-
JUDGE**

**SD/-
JUDGE**

RD