



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JANUARY, 2023

BEFORE

THE HON'BLE MR JUSTICE HANCHATE SANJEEVKUMAR

MISCELLANEOUS FIRST APPEAL NO. 1220 OF 2017 (MV-I)

BETWEEN:

SRI NANDEESH
S/O ERAIAH
AGED ABOUT 31 YEARS
MALLENAHALLI
GOLLARAHATTI
TUMKUR TALUK
TUMKUR DISTRICT-572 101.

...APPELLANT

(BY SRI. RAMESH K R., ADVOCATE)

AND:

1. GANGALAKSHMAMMA
W/O SHIVAKUMAR
DIMMAIAHNPALYA
GULUR HOBLI
TUMKUR TALUK
TUMKUR DISTRICT-572 101.
2. THE MANAGER
THE ORIENTAL INSURANCE
CO., LTD., TGMA BUILDING
J C ROAD TUMKUR-572 101
REP.BY ITS BRANCH MANAGER

...RESPONDENTS

(BY SRI. S Y SHIVALLI, ADVOCATE FOR R2; R1-NOTICE D/W
V/O DT:16/03/2018)



THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:25/07/2016 PASSED IN MVC NO.874/2014 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND MACT, TUMAKURU, 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 filed under Section-173(1) of the Motor Vehicles Act 1988 (hereinafter referred to as 'MV Act' for brevity) by the appellant-claimant, calling in question the judgment and award dated 25.07.2016, passed in M.V.C.No.874/2014, on the file of the II Additional Senior Civil Judge And Motor Accident Claims Tribunal, Bengaluru, (hereinafter referred to as 'the Tribunal' for brevity) for seeking enhancement of the compensation.

Brief facts:

2. On 26.02.2014, at about 3.30 p.m., when the claimant was travelling in an auto-rickshaw bearing registration No.KA-06-B-1093 to his village via



Kesaramadu, near Kesaramadu Darga Crossing Road, Tumakuru Taluk, the driver of the said auto-rickshaw drove it in high speed, rash and negligent manner and capsized the same on the road. As a result of the said accident, the claimant has sustained crush injury to his right thumb.

3. Hence, a claim petition was filed by the appellant-claimant under Section-166 of the M.V. Act, claiming compensation for the injuries suffered in the accident. The Tribunal on appreciating the materials on record, allowed the claim petition in part, and awarded a global compensation of Rs.1,00,000/-, along with interest at 6% per annum from the date of petition till the date of realisation. The Tribunal held respondent No.2 therein, liable to pay the compensation.

4. Heard arguments of the learned counsel for the appellant-claimant and the learned counsel for respondent



No.2 – insurance company and perused the materials on record.

5. From the medical evidence produced as per Exhibit-P5, Wound Certificate and Exhibit-P38, Discharge Summary, it is proved that the claimant had suffered crush injury to the right hand thumb and it is grievous in nature. The claimant was hospitalized for more than 30 days. The claimant was working as a Helper in a private factory. There is no evidence that the claimant was terminated from the service due to the injury sustained in the accident. Therefore, in the absence of any evidence that the claimant was terminated from the service, it is deemed that the claimant has continued in service as he was working in a private factory.

6. Upon considering the quantum of compensation granted by the Tribunal, even though is global in nature is found to be on lesser side. In view of the nature of the injuries sustained and disability occurred and the quantum of medical expenses and hospitalization charges spent, it



is just and proper to award an additional amount of Rs.50,000/- in lump-sum, along with interest at 6% per annum from the date of filing of the petition till realization, in addition to what has been awarded by the Tribunal. The Insurance Company is directed to deposit the amount of total compensation within **Eight Weeks** from the date of receipt of the certified copy of this judgment.

7. Accordingly, I pass the following:

ORDER

- i. The appeal is **allowed in part.**
- ii. The impugned judgment and award dated 25.07.2016, passed in M.V.C.No.874/2014, on the file of the II Additional Senior Civil Judge And Motor Accident Claims Tribunal, Bengaluru is modified to the aforesaid extent.
- iii. The appellant – claimant is entitled for an additional compensation of **Rs.50,000/- (Rs.1,00,000 + Rs.50,000)** along with



interest at 6% per annum from the date of filing of the petition till realization, in addition to what has been awarded by the Tribunal. However, the appellant-claimant is not entitled for interest for the delayed period of 88 days, in filing the appeal.

- iv. Respondent No.2 – insurance company shall pay the compensation to the appellant/claimant.
- v. Registry is directed to return the Trial Court Records to the Tribunal, along with certified copy of the order passed by this Court forthwith without any delay.
- vi. No order as to costs.
- vii. Draw award accordingly.

**Sd/-
JUDGE**

JJ

List No.: 1 Sl No.: 37