



NC: 2024:KHC-D:2206
MFA No. 100024 of 2014
C/W MFA No. 100032 of 2014

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 31ST DAY OF JANUARY, 2024

BEFORE

THE HON'BLE MR JUSTICE V.SRISHANANDA

MISCELLANEOUS FIRST APPEAL NO.100024 OF 2014 (MV)

C/W

MISCELLANEOUS FIRST APPEAL NO.100032 OF 2014

IN M. F. A. NO.100024 OF 2014 (MV)

BETWEEN:

HUCHAPPA APPOJAPPA NAYAKAR
AGE: 40 YEARS, OCC: AGRICULTURE AND
OWNER OF THE VEHICLE BEARING NO.
KA.29/R.4803,
R/O. BADARADINNI, TQ: BILAGI,
DIST: BAGALKOT.

...APPELLANT

(BY SRI. PRAKASH N.HOSAMANE, ADVOCATE)

AND:

HOLABASAPPA YAMANAPPA GODUAR
AGE: 37 YEARS, OCC: HOTEL BUSINESS,
R/O. BADARADINNI, TQ: BILAGI,
DIST: BAGALKOT.

...RESPONDENT

(BY SRI. B.C. JNANAYYASWAMI, ADVOCATE)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER
SECTION 173(1) OF MV ACT, AGAINST JUDGMENT AND AWARD
DTD:25.09.2013, PASSED IN MVC.NO.193/2012 ON THE FILE OF THE
MEMBER MACT-II, BAGALKOT, AWARDING THE COMPENSATION OF
RS.31,000/- WITH INTEREST AT THE RATE OF 6% P.A. FROM THE
DATE OF PETITION TILL THE DATE OF REALISATION.



IN M. F. A. NO.100032 OF 2014

BETWEEN:

HOLABASAPPA YAMANAPPA GODUAR,
AGE: 37 YEARS, OCC: HOTEL BUSINESS,
R/O: BADARADINNI, TQ: BILAGI,
DIST: BAGALKOT.

...APPELLANT

(BY SRI. B.C. JNANAYYASWAMI, ADVOCATE)

AND:

HUCHAPPA APPOJAPPA NAYAKAR,
AGE: 40 YEARS, OCC: AGRICULTURE AND
OWNER OF THE VEHICLE BEARING NO.
KA.29/R.4803,
R/O. BADARADINNI, TQ: BILAGI,
DIST: BAGALKOT.

...RESPONDENT

(BY SRI. PRAKASH N.HOSAMANE, ADVOCATE)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF MV ACT, AGAINST JUDGMENT AND AWARD DTD:25.09.2013, PASSED IN MVC.NO.193/2012 ON THE FILE OF THE MEMBER MACT-II, BAGALKOT, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS MISCELLANEOUS FIRST APPEAL, COMING ON FOR ADMISSION, THIS DAY, THE COURT DELIVERED THE FOLLOWING:



JUDGMENT

Though the matters are listed for admission, by consent of parties, these matters are taken up for final disposal.

2. Heard learned counsel Shri. Prakash N. Hosamane and Shri. B. C. Jnayyaswami.

3. These two appeals arise out of the judgment and award passed in MVC No.193/2012 on the file of Member MACT-II, Bagalkote dated 25.09.2013.

4. Holabasappa Yamanappa Goudar, suffered an accidental injury in a road traffic accident involving motor cycle bearing registration No.KA-30/H-2903 and another motor cycle bearing registration No.KA-29/R-4803.

5. It is pertinent to note that both the motor cycles were not insured.

6. Police after further investigation filed the charge sheet against the rider of the motor cycle bearing registration No.KA-29/R-4803.

7. On contest claim petition came to be allowed in part by awarding compensation in a sum of Rs.31,000/-.



8. Being aggrieved by the same, the owner of the motor cycle bearing registration No.KA-29/R-4803 is in appeal so also the claimant.

9. Having heard the parties in detail, this Court is of the considered opinion that the owner has to pay the compensation even though two motor cycles were involved in the accident and both the motor cycles were not insured having regard to the fact that the charge sheet came to be filed against the rider of the motor cycle bearing registration No.KA-29/R-4803.

10. Further, the amount of compensation awarded in a sum of Rs.31,000/- is on the lower side. If it is enhanced to a sum of Rs.46,000/-, ends of justice would be met, taking note of the fact that the Tribunal has not awarded compensation on the head of loss of income during laid up period, loss of amenities, attendant and nourishment charges.

11. Accordingly, the following order is passed:

ORDER

(i) Appeal filed by the owner of the motor cycle bearing registration No.KA-29/R-4803 in MFA No.100024/2014 is hereby dismissed.



(ii) Appeal filed by the claimant in MFA No.100032/2014 is allowed in part.

(iii) As against the sum of Rs.31,000/- awarded by the Tribunal, the claimant would be entitled to a sum of Rs.46,000/- with interest at the rate of 6% per annum from the date of petition till payment.

(iv) Additional sum of Rs.15,000/- does not carry any interest as the amount of Rs.31,000/- with interest is satisfied with the appellant in MFA No.100024/2014.

(v) Statutory amount in deposit in MFA No.100024/2014 is ordered to be withdrawn by the appellant/claimant in MFA No.100032/2014.

(vi) Ordered accordingly.

Sd/-
JUDGE