



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.102759 OF 2014 (MV-I)

BETWEEN:

DADAPEER S/O. NABISAB,
AGE: 10 YEARS, MINOR,
M/G HIS REAL FATHER BY
NAME NABISAB S/O. RAJESAB MULLA @ YAMANUR,
AGE: 43 YEARS, OCC: AGRICULTURIST,
R/O: NEERLOOTI, TQ: GANGAVATHI, DIST: KOPPAL.

...APPELLANT

(BY SRI. M. AMAREGOUDA, ADVOCATE)

AND:

1. SHARANAYYASWAMY S/O. NAGAYYASWAMY,
AGE: 38 YEARS, OCC: DRIVER OF TRACTOR,
BEARING NO.KA-37/T-8592 AND
TRAILER BEARING NO.KA-37/8593,
R/O: KRADONI, TQ: GANGAVATHI,
DIST: KOPPAL.
2. MARIYAPPA S/O. LACHAMAPPA BANDI,
AGE: 47 YEARS, OCC: OWNER OF TRACTOR,
BEARING NO.KA-37/T-8592 AND TRAILER
BEARING NO.KA-37/8593
R/O: KARADONI, TQ: GANGAVATHI,
DIST: KOPPAL.
3. THE BRANCH MANAGER,
UNITED INDIA INSURANCE CO. LTD.,
BRANCH OFFICE SANMAN TOURIST
COMPLEX ISLAMPUR, GANGAVATHI.

...RESPONDENTS

(BY SRI. S.S. KOLIWAD, ADVOCATE FOR R3;
R1 AND R2 SERVED)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF MV ACT 1988, AGAINST JUDGMENT AND AWARD DTD: 20.01.2014, PASSED IN MVC.NO.121/2012 ON THE FILE OF THE SENIOR CIVIL JUDGE & M.A.C.T. AT GANGAVATHI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

JUDGMENT

Heard Sri M.Amare Gouda, advocate for appellant/claimant and Sri S.S.Koliwad, advocate for respondent No.3/Insurance Company.

2. Claimant is the appellant challenging the validity of the judgment and award passed in MVC No.121/2012 dated 20.01.2014 on the file of the Senior Civil Judge and MACT, Gangavathi, insofar as quantum of compensation is concerned.

3. Admitted facts are that claimant sustained accidental injuries in the road traffic accident that occurred on 17.11.2011 at about 7.00 pm. When the claimant was playing outside the Government Primary School, he met with an accident involving Tractor Trailer bearing registration No.KA-37/T-8592 and 8593.

4. The claim petition, on contest came to be allowed in part granting Rs.74,392/- as compensation.

5. Being aggrieved by the same, the claimant has preferred the present appeal challenging the impugned judgment and



award contending that the quantum of compensation is inadequate.

6. Per contra, Sri S.S.Koliwad, advocate for the Insurance Company supported the impugned judgment contending that eight year old boy suffered injury, he is cured and he is now enjoying life as normal person and sought for dismissal of the appeal.

7. Taking note of the fact that eight year old boy suffered abdominal injury, Tribunal awarded compensation in a sum of Rs.74,392/-. On the head of pain and suffering only Rs.20,000/- is awarded. On the head of loss of prospectus in life only Rs.20,000/- is awarded, Rs.19,392/- is awarded towards medical expenses, towards diet, nourishment, attendant charges and conveyance Rs.15,000/- is awarded.

8. Instead of enhancing compensation on each and every head, like loss of amenities and other aspects, enhancing the compensation to Rs.1,25,000/- from Rs.74,392/- would meet the ends of justice, taking note of the fact that boy was inpatient for a period of 60 days.



9. Accordingly, the following:

ORDER

- (i) Appeal is ***allowed in part.***
- (ii) As against compensation in a sum of Rs.74,392/- awarded by the Tribunal, the claimant is entitled to Rs.1,25,000/- with interest at the rate of 6% from the date of claim petition till realization.
- (iii) Balance amount to be deposited by Insurance Company within a period of four weeks from today.

Sd/-
JUDGE

kcm
List No.: 1 Sl No.: 47