IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 7TH DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCL. FIRST APPEAL NO. 200441 OF 2019 (MV-I)

BETWEEN:

SRI. CHIKKAVEERAPPA S/O VEERABHADRAPPA,
AGE: 45 YEARS, OCC: AGRI.,
GONAL VILLAGE.
TQ: SINDHANUR.
NOW RESIDING AT NIJALINGAPPA COLONY.
RAICHUR – 584 101.

…APPELLANT

(BY SRI SHARANAGOWDA V.PATIL, ADVOCATE)

AND:

1. SRI. KALAKAPPA
S/O TIPPANNA KURUBAR,
AGE: 40 YEARS,
OCC: DRIVER OF NEKRTC
BADGE NO.32657.
BUS NO.KA-34/F-979,
NEKSRTC DEPOT HOSPET,
DIST: BALLARI – 583 101.

2. THE DIVISIONAL CONTROLLER,
NEKRTC, HOSPET DIVISION,
HOSPET – 583 201.
(OWNER AND SELF-INSURER OF
BUS NO. KA-34/F-979)

…RESPONDENTS

(BY SRI SHARANABASAPPA M.PATIL, ADVOCATE FOR R2;
NOTICE TO R1 IS DISPENSED WITH)

Digitally signed by NIJAMUDDIN JAMKHANDI
Location: HIGH COURT OF KARNATAKA

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, PRAYING TO CALL FOR THE RECORDS AND MODIFY THE JUDGMENT AND AWARD DATED 27.09.2018, PASSED BY THE II ADDL. DISTRICT AND SESSIONS JUDGE AT RAICHUR, IN M.V.C.NO.335/2017 AND SOUGHT FOR ENHANCEMENT OF RS.14,50,000/-, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS MFA, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 27.09.2018 passed by II Add. District and Sessions Judge & MACT Raichur, in MVC no.335/2017, this appeal is filed.

2. Sri Sharanagowda V.Patil, learned counsel submitted appeal was by claimant for enhancement of compensation. It was submitted on 21.01.2017, when claimant and his son Kiran Kumar were waiting at 1st gate of Sindhanur bus stop, driver of NEKRTC bus no.KA-34/F-979, drove it in rash and negligent manner and dashed against claimant causing accident. In said accident, claimant sustained grievous injuries and was admitted to Krishna Hospital, Sindhanur and thereafter to Kshema Orthopedic Hospital, Hubli. Despite taking treatment, he did not recover fully and sustained permanent

physical disability/loss of earning capacity. Therefore, he filed claim petition under Section 166 of M.V.Act, against driver and owner of bus/NEKRTC.

3. On contest, wherein claim petition was opposed denying age, occupation, income and loss of earning capacity of claimant, tribunal framed issues and recorded evidence. Claimant examined himself and Dr.Harish Kanakapur as PWs.1 and 2 and got marked Exs.P.1 to P.11. Driver of bus was examined as RW.1.

4. On consideration, Tribunal held accident had occurred due to rash and negligent driving of bus by its driver, claimant sustained permanent physical disability/loss of earning capacity and entitled for compensation assessed as follows:

Sl.No.	Heads	Amount
1	Pain and suffering	Rs.75,000/-
2	Medical expenses	Rs.1,64,900/-
3	Food, nourishment & conveyance	Rs.20,000/-
4	Attendant charges	Rs.10,000/-
5	Loss of income during laid-up period	Rs.14,000/-
6	Loss of future earnings	Rs.4,70,400/-
7	Loss of amenities	Rs.75,000/-
	Total	Rs.8,29,300/-

5. Dissatisfied with same, claimant was in appeal.

6. It was submitted that due to accidental injuries, claimant sustained amputation of right leg below knee. However, tribunal awarded inadequate compensation of Rs.75,000/- each towards loss of amenities and pain and suffering. It was submitted claimant took inpatient treatment for 15 days. Therefore, award of Rs.20,000/- towards food, nourishment and conveyance and Rs.10,000/- towards attendant charges were on lower side. Even compensation awarded towards medical expenses and loss of income during laid up period were inadequate. It was specifically contended that PW.2 assessed permanent physical disability at 51%. However, tribunal considered functional disability at 40% which was on lower side. It was submitted as per decision of Hon'ble Supreme Court in ***Mohd.Sabeer @ Shabir Hussain v. Regional Manager, U.P. State Road Transport Corporation[1],*** tribunal ought to have added future prospects. Failure resulted in inadequate award and sought enhancement.

7. On other hand, Sri Sharanabasappa M.Patil, learned counsel for insurer opposed appeal. It was submitted, tribunal

[1] (2023) 20 SCC 774

had assessed just compensation under various heads separately leaving no scope for enhancement.

8. Heard learned counsel, perused impugned judgment and award.

9. As this appeal is by claimant for enhancement of compensation, only point that would arise for consideration is:

> *"Whether claimant is entitled for enhancement of compensation as prayed for?*

10. Though claimant stated that he was agricultural coolie and earning Rs.3,00,000/- per annum, same was not substantiated with specific evidence. In absence, tribunal was justified in assessing it notionally. But notional income for year 2017 as adopted by Karnataka State Legal Services Authority being Rs.10,250/-, it was not justified in taking at Rs.7,000/- per month. Therefore, Rs.10,250/- per month has to be considered as monthly income.

11. Claimant sustained amputation of right leg below knee apart from other lacerated injuries, for which award of Rs.25,000/- towards pain and suffering would be grossly inadequate. It would be appropriate to enhance it to

Rs.1,50,000/-. Tribunal awarded Rs.1,64,900/- towards medical expenses against bills produced which is just and proper. Likewise, it awarded Rs.20,000/- towards food, nourishment and conveyance and Rs.10,000/- towards attendant charges for in-patient period of 15 days which also appears just and proper. Hence, there is no enhancement.

12. PW.2 assessed permanent physical disability at 51%, due to amputation of right leg below knee. Considering age and occupation of claimant, assessment of functional disability at 40% would be grossly inadequate. It would be appropriate to consider it at 50%. Claimant was 43 year old agriculturist i.e., self-employed. As per decision of Hon'ble Court in case of ***National Insurance Company Limited v. Pranay Sethi and others***[2]**,** future prospects at 25% has to be added and multiplier applicable would be 14. Thus, compensation of loss of future loss income would be:

(Rs.10,250/- + 25%) x 50% x 12 x 14 = Rs.10,76,250/-

13. Further, Tribunal awarded only Rs.75,000/- towards loss of amenities. In view of amputation of lower limb, following

[2] (2017) 16 SCC 680

ratio in ***Rajkumar v. Ajaykumar and Anr.***[3] same is enhanced to Rs.1,50,000/-. For amputation of lower limb, claimant would have stayed away from employment for at-least 6 months. Taking same as laid-up period, claimant would be entitled for Rs.61,500/- as loss of income during laid-up period.

14. Tribunal has not awarded any compensation towards future medical expenses. When claimant sustained amputation of lower limb, he would be entitled for compensation towards artificial limb, its periodic maintenance and replacement. Therefore, it is fit to award Rs.1,00,000/- towards future medical expenses.

15. Thus, total compensation would be:

Sl.No.	Heads	Amount
1	Pain and suffering	Rs.1,50,000/-
2	Medical expenses	Rs.1,64,900/-
3	Food, nourishment & conveyance	Rs.20,000/-
4	Attendant charges	Rs.10,000/-
5	Loss of income during laid off period	Rs.61,500/-
6	Loss of future earnings	Rs.10,76,250/-
7	Loss of amenities	Rs.1,50,000/-
8.	Future medical expenses	Rs.1,00,000/-
	Total	**Rs.17,32,650/-**

[3] (2011) 2 SCC 343

16. Point for consideration is answered partly in affirmative. Consequently, following:

ORDER

i. Appeal is allowed in part.

ii. Judgment and award dated 27.09.2018 passed by II Add. District and Sessions Judge & MACT Raichur, in MVC no.335/2017, is modified.

iii. Claimant is held entitled for re-assessed compensation of Rs.17,32,650/- as against Rs.8,29,300/- awarded by Tribunal, with interest at 6% per annum from date of claim petition till deposit.

iv. Respondent-insurer to deposit same before Tribunal within six weeks.

Sd/-
(RAVI V HOSMANI)
JUDGE

MSR
List No.: 1 Sl No.: 62