IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCL. FIRST APPEAL NO.200425 OF 2019 (MV-I)

BETWEEN:

SMT. VANDANA W/O DADASAHEB BHOSALE,
AGED ABOUT 45 YEARS, OCC: HOUSEHOLD WORK,
R/O TIKOTA, DIST. VIJAYAPUR-586 101.

…APPELLANT

(BY SRI. S.S. MAMADAPUR, ADVOCATE)

AND:

1. SRI. SHANKARAPPA
   S/O SHIDAGONDAPPA KANDANODIA,
   AGED ABOUT 48 YEARS, OCC: BUSINESS,
   R/O GOUDAR ONI, YADAWAD,
   TQ. GOKAK, DIST. BELGAUM-590 005.

2. THE DIVISIONAL MANAGER,
   UNITED INSURANCE CO. LTD.,
   SANGAM BUILDING, S.S. FRONT ROAD,
   VIJAYAPUR-586 101.

…RESPONDENTS

(BY SRI. RAHUL R. ASTURE, ADV. FOR R2;
V/O DTD. 09.07.2019, NOTICE TO R1 IS DISPENSED WITH)

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Location: HIGH COURT OF KARNATAKA

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO ENHANCE THE COMPENSATION AMOUNT BY SUITABLY MODIFYING THE JUDGMENT DATED 17.10.2018 PASSED BY THE LEARNED II ADDL. SENIOR CIVIL JUDGE AND MACT-VII, VIJAYPUR IN MVC NO.605/2016.

THIS APPEAL COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE C M JOSHI)

Heard the learned counsel appearing for the appellant and the learned counsel for respondent No.2.

2. By the consent of learned counsel appearing for both the parties, the matter is taken up for final disposal, though it is slated for Admission.

3. This appeal is directed against the judgment and award dated 17.10.2018 passed in MVC No.605/2016 by the learned II Additional Senior Civil Judge and

MACT-VII, Vijayapura (hereinafter referred to as 'the Tribunal' for short).

4. By the impugned judgment and award, the Tribunal has allowed the claim petition in part and awarded a sum of Rs.2,22,100/- as compensation and directed the Insurance Company to deposit the same. Aggrieved by the said judgment and award, the petitioner is before this Court, seeking enhancement of compensation.

5. The factual matrix of the case is that, on 23.02.2016 when the petitioner was riding as a pillion on the motorcycle bearing No.JH.01/BE.0675 ridden by her husband, she met with an accident when a truck bearing No.KA-49/3670 owned by respondent No.1 and insured by respondent No.2 collided with motorcycle. In the said accident, she sustained fracture of the clavicle on the right side and few other injuries, whereas her husband, who was the rider of the motorcycle succumbed to injuries in the accident. The petitioner was admitted to Dr.Karnalkar

Orthopedic Hospital, Sangli and she was inpatient on three occasions. Initially, the petitioner was an inpatient from 23.02.2016 to 24.02.2016 and then from 05.03.2016 to 10.03.2016 and thereafter again from 31.12.2016 to 11.01.2017.

6. The fact that there was an accident and the petitioner had sustained injuries in the said accident is not in dispute before this Court. The coverage of the insurance for the offending vehicle by respondent No.2 is also not in dispute. It is only the quantum of compensation, which is urged before this Court in appeal. Therefore, it is not necessary for this Court to look into those aspects of the matter, which have attained finality.

7. Learned counsel appearing for the appellant would submit that despite there being sufficient evidence on record, the Tribunal has not awarded the entire medical expenses and it has failed to notice the discharge summaries at Exs.P11 and P12. It is contended that the medical bills in respect of the inpatient treatment of the

petitioner on the second occasion are not properly appreciated by the Tribunal, despite there being the testimony of the treated doctor i.e., PW.2. Therefore, he contends that the compensation awarded by the Tribunal is on the lower side and the assessment of the disability as well as the notional income of the appellant needs reassessment by this Court.

8. Per contra, learned counsel for respondent No.2 defends the impugned judgment saying that the Tribunal has awarded adequate compensation and therefore, there is no need for indulgence by this Court.

9. On a careful perusal of the records, it is found that though the treated doctor is examined as PW.2, nothing is elicited in the examination-in-chief or in the cross-examination about the bills/receipts issued by him, which are part of Ex.P10. When the author of the document was available before the Court, it appears that the case was not properly conducted before the Tribunal. However, the records reveal that the discharge summaries

at Exs.P11 and P12, coupled with the case sheet of the hospital, which is submitted to the Tribunal would show that she was inpatient on the above mentioned dates. She had also underwent surgeries. Therefore, the testimony of PW.2 cannot be brushed aside to say that his evidence is inadmissible. Moreover, apart from the testimony of PW.2, the hospital records and the discharge summaries as well as the X-ray reports etc., would show that the petitioner had sustained fracture of the right clavicle and it had not united and therefore, there was need for second and third admission to the hospital. Under these circumstances, the Tribunal deducting certain medical bills, while assessing the medical expenses appears to be incorrect. However, this Court notices that some of the hospital bills do not bear the place where the hospital is situated and it gives an impression that the bills are not properly issued by the hospital.

10. However, the fact that the petitioner had sustained the injuries and had suffered the disability of

15% as stated by PW.2 cannot be brushed aside in limine. The Tribunal considered the disability at 2% and calculated the compensation. It is relevant to note that the two further admissions of the petitioner to the hospital on account of the disability and the x-rays showing the treatment by ORIF plate and screws, definitely has resulted in functional disability.

11. In the considered opinion of this Court, the petitioner having stated that she was a coolie, the disability is considered at 5%.

12. The guidelines issued by the KSLSA for settlement of disputes before Lok-Adalath prescribe a notional income of Rs.8,750/- per month for the year 2016. In umpteen number of judgments, this Court has held that the guidelines issued by the KSLSA are in general conformity with the wages fixed under the Minimum Wages Act. Therefore, they are acceptable. Hence, the notional income of the petitioner is considered at Rs.8,750/-. Therefore, the loss of future income on

account of the functional disability is calculated as Rs.8,750/- x 12 x 5% x 14 = Rs.73,500/- by adopting a multiplier of 14 for the age of 45 years.

13. Similarly, the compensation under the head of loss of income during the laid up period is calculated at Rs.8,750/- x 2 months = Rs.17,500/-.

14. After reassessment of the medical bills, the petitioner is entitled for a sum of Rs.1,57,400/- in addition to the compensation awarded by the Tribunal which is at Rs.1,15,300/-.

15. Considering the nature of the injuries suffered and its non-union for a longer period, the compensation under the head of loss of amenities in life is enhanced to Rs.30,000/-.

16. The compensation awarded by the Tribunal under the remaining heads i.e., pain and suffering, food and nourishment, attended charges and conveyance charges being adequate, do not require any enhancement.

17. Therefore, the appellant is entitled for the modified compensation under different heads as below:-

Sl. No.	Heads	Compensation Awarded by this Court
1.	Loss of future income	Rs. 73,500/-
2.	Towards medical bills	Rs.1,57,400/-
3.	Loss of amenities in life	Rs. 30,000/-
4.	Loss of income during laid up period	Rs. 17,500/-
5.	Towards pain and suffering	Rs. 20,000/-
6.	Food and nourishment	Rs. 10,000/-
7.	Attendant charges	Rs. 20,000/-
8.	Conveyance charges	Rs. 20,000/-
	Total Less: Awarded by the Tribunal	Rs.3,48,400/- Rs.2,22,100
	Total enhancement	Rs.1,26,300/-

Thus, the appellant is entitled for enhanced compensation of Rs.1,26,300/- with interest.

18. Therefore, the appeal deserves to be allowed in part. Hence, the following;

O R D E R

I. The appeal is allowed in part.

II. The appellant is entitled for a sum of Rs.1,26,300/- in addition to what has been awarded by the Tribunal along with interest at the rate of 6% p.a. from date of petition till the date of deposit.

III. Rest of the order passed by the Tribunal regarding deposit etc., remain unaltered.

Sd/-
(C M JOSHI)
JUDGE

LG/KJJ
List No.: 1 Sl No.: 29