IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 9TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCL. FIRST APPEAL NO.200514/2019 (MV-I)

BETWEEN:

THE DIVISIONAL CONTROLLER,
NEKRTC, BIDAR DIVISION,
BIDAR,
NOW THROUGH ITS
CHIEF LAW OFFICER, NEKRTC,
CENTRAL OFFICE,
SARIGE SADAHANA, MAIN ROAD,
KALABURAGI,
THROUGH ITS
AUTHORISED SIGNATORY.

...APPELLANT

(BY SRI SHARANABASAPPA M. PATIL, ADVOCATE)

Digitally signed by LUCYGRACE
Location: HIGH COURT OF KARNATAKA

AND:

DATTATRI S/O. MADHAVRAO BHALKE,
AGE: 36 YEARS, OCC: PRIVATE SERVICE,
WORKING IN BARRI HIX AGRO SCIENCE CO., LTD.,
BANGALORE,
R/O. VILLAGE HUPLA, TQ. BHALKI,
DIST. BIDAR-585 328.

...RESPONDENT

(BY SRI BABU H. METAGUDDA, ADVOCATE)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO MODIFY THE ORDER OF THE TRIBUNAL AND CALL FOR THE LOWER COURT RECORDS AND HEAR THE PARTIES AND SET ASIDE THE JUDGMENT DATED 03.11.2018 AND AWARD DATED 17.11.2018 IN MVC NO.46/2015 ON THE FILE OF THE COURT OF THE ADDL. MACT AND ADDL. DISTRICT AND SESSIONS JUDGE, BIDAR, (SITTING AT BHALKI).

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)

1. Heard learned counsel appearing for the appellant and the learned counsel appearing for the respondent-claimant on admissibility of the appeal.

2. The appellant-NEKRTC (hereinafter referred to as 'Corporation') is before this Court assailing the judgment and award passed in MVC No.46/2015 dated 03.11.2018 by the Additional District and Sessions Judge and MACT, Bidar,

sitting at Bhalki, (for short 'Tribunal'). The respondent was petitioner-claimant before the Tribunal.

3. By impugned judgment, the Tribunal relying on the testimony of PW2, who was not a treated Doctor, who had assessed the disability of the lower limb of the petitioner at 80%, reduced it to 20% owing to the avocation of the petitioner and awarded the compensation. The nature of the injuries discussed by the Tribunal in paragraph 17 of the impugned judgment shows that the petitioner had sustained fracture of both the bones of the left leg, *i.e.,* tibia and fibula, perineal tear and degloving thigh and was treated extensively in two hospitals. Assailing the disability of 20% considered by the Tribunal, and also contending that the driver of the appellant-Corporation had been acquitted by the Criminal Court, the appellant-Corporation is before this Court.

4. The discussion made by the Tribunal in Paragraph Nos. 17, 18 and 19 is clear enough as to why it came to the

conclusion that there is disability of 20%. Therefore, no interference is required on the same.

5. The second prong of the arguments of the Corporation that the Criminal Court had acquitted the Driver from the criminal charges and therefore, the appellant-Corporation is not liable to pay the compensation is an absurd argument. The basic tenets of tortuous liability appear to have been forgotten by the appellant-Corporation. Therefore, this argument deserves to be rejected in *limine*. Under these circumstances the appeal is bereft of any merit for admission and therefore, the following:

O R D E R

i) The appeal is dismissed.

ii) The impugned judgment and award passed by the Tribunal in MVC No.46/2015 dated 03.11.2018 by the Additional District and Sessions Judge and MACT, Bidar, sitting at Bhalki, is confirmed.

iii) The amount in deposit before this Court be transmitted to the Tribunal.

Sd/-
(C.M. JOSHI)
JUDGE

SBS
List No.: 1 Sl No.: 38
CT: AK