**IN THE HIGH COURT OF KARNATAKA,**

**KALABURAGI BENCH**

**DATED THIS THE 8TH DAY OF APRIL, 2025**

**BEFORE**

**THE HON'BLE MR. JUSTICE C M JOSHI**

**MISCL. FIRST APPEAL NO.201287 OF 2022 (MV-I)**

**BETWEEN:**

JAISHREE @ JAYAMMA D/O BHIMSHAH,
AGE: 21 YEARS, OCC: LABOUR, NOW NIL,
R/O VILLAGE BENAKPALLI, BASHIRPUR,
TQ. HUMNABAD, DIST. BIDAR,
NOW AT YALLALING COLONY, NAUBAD,
BIDAR-585 401.

…APPELLANT

(BY SRI. BASAVARAJ R. MATH, ADVOCATE)

**AND:**

1. VEERESH REDDY S/O MANIKAPPA REDDY,
   AGE: MAJOR, OCC: BUSINESS,
   R/O 1/53, YERBAGH, TQ. BASAVAKALYAN,
   DIST. BIDAR,
   (OWNER OF THE VEHICLE BEARING
   REGN. NO. KA-56/2621).

2. THE BRANCH MANAGER,
   NEW INDIA ASSURANCE CO. LTD.,
   PADMINI KUNJA COMPLEX, UDGIR ROAD,
   BIDAR-585 401.

…RESPONDENTS

(BY SRI. S.S. ASPALLI, ADV. FOR R2;
V/O DTD. 10.08.2022, NOTICE TO R1 IS DISPENSED WITH)

Digitally signed by SHIVALEELA DATTATRAYA UDAGI
Location: HIGH COURT OF KARNATAKA

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO MODIFY THE IMPUGNED JUDGMENT AND AWARD DATED 05.02.2022 PASSED BY THE 2ND ADDL. SENIOR CIVIL JUDE AND JMFC - BIDAR AND MOTOR ACCIDENT CLAIMS TRIBUNAL AT BIDAR IN MVC NO. 255/2020.

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)

Though the matter is slated for admission, by consent of both the parties, it is taken up for final disposal and heard the learned counsel for both the parties.

2. Being aggrieved by the judgment and award dated 05.02.2022 in MVC No.255/2020 by the II-Addl. Senior Civil Judge & JMFC and MACT, Bidar (for short, 'the Tribunal'), the petitioner is before this Court seeking enhancement of the compensation.

3. The short point that arises regarding disability of the petitioner and quantum of compensation awarded by the Tribunal.

4. The admitted facts are that on 16.02.2020 at about 9:00 a.m. while petitioner was going to coolie work for cutting sugarcane in vehicle bearing No.KA-39/9552, another vehicle bearing No.KA-56/2621 came from opposite side and dashed to the vehicle in which the petitioner was travelling. Due to the said accident, the petitioner suffering injuries to her left hand and the 4$^{th}$ finger. After the accident, the petitioner was admitted to the Hospital at Manna-E-Khelli and thereafter she was shifted to Government Hospital, Bidar. She took treatment as inpatient till 27.02.2020. A case was registered by the concerned jurisdictional police station in Crime No.3/2020 against the offending vehicle and the driver was prosecuted. Contending that petitioner was aged about 19 years, working as coolie, earning

Rs.15,000/- per month, she filed claim petition before the Tribunal for adequate compensation.

5. The respondent Nos.1 and 2, who are the owner and insurer of the offending vehicle appeared before the Tribunal and resisted the claim petition contending that the driver of the vehicle violated the terms and conditions of the policy and the alleged accident occurred due to negligence of the driver of the vehicle in which the petitioner was travelling. *Inter alia* they also contended that the compensation claimed is highly exorbitant, imaginary and untenable in law and they denied the age, income and occupation of the petitioner.

6. The Tribunal framed appropriate issues and the petitioner was examined as PW.1 and the doctor who assessed the disability was examined as PW.2 and got marked Exs.P1 to P8. No evidence led on behalf of the respondents.

7. After hearing both the sides, the Tribunal has awarded compensation of Rs.1,75,845/- under different heads as below:

| Sl.No. | Heads | Compensation |
|---|---|---|
| 1. | Loss of future income | Rs.1,08,000/- |
| 2. | Pain and suffering | Rs.20,000/- |
| 3. | Medical Expenses | Rs.1,845/- |
| 4. | Loss of income during laid up period | Rs.10,000/- |
| 5. | Food and nourishment, conveyance & attendant charges | Rs.10,000/- |
| 6. | Loss of future amenity | Rs.25,000/- |
| | **Total** | **Rs.1,75,845/-** |

8. Being aggrieved by the quantum of compensation, the petitioner is before this Court.

9. Learned counsel appearing for the petitioner-appellant would submit that the petitioner is aged about 19 years and working as coolie and she is suffering injury to her left hand and therefore, her earning capacity has been impaired. It is pointed out that the 4$^{th}$ finger of left hand has been disfigured, resulting in disability as stated by PW.2. He states that there is 21% disability to the

whole body and therefore there is need for reassessment of compensation.

10. The learned counsel appearing for respondent No.2-Insurance Company submits that the fracture of 4th finger of left hand cannot in any way result in disability of 21%. The testimony of PW.2 cannot be accepted. It is contended that the compensation awarded by the Tribunal is proper and there is no need for any enhancement.

11. A careful perusal of the material available on record would show that the petitioner was admitted to the Hospital for 11 days and the wound certificate would show that she had suffered fracture of base 4th finger of left hand and she underwent close reduction and internal fixation with k-wiring. PW.2 states that the injury has resulted in malunion of fracture and there is deformity. He states that deformity resulted in 10% disability and the remaining aspects contribute for 11% and therefore, he states that, the disability is 21%. The disability at Ex.P3

would not show that the said disability is to the whole body.

12. On careful assessment of disability as may be found from Ex.P3, the said disability is to the limb. Obviously the PW.2 could not have given any disability in respect of whole body as he was unaware of the avocation of the petitioner. Therefore, considering the fact that the petitioner was aged about 19 years at the time of accident, the functional disability is considered at 8%.

13. So far as income is concerned, the guidelines issued by KSLSA for the purpose of settlement of disputes before the Lok-Adalath prescribe a notional income of Rs.13,750/- for the year 2020. Hence, the compensation under the head of loss of future income on account of disability is calculated as Rs.13,750/- x 12 x 18 x 8% = Rs.2,37,600/-.

14. Consequently, the compensation under the head of loss of income during laid up is assessed at Rs.13,750/- x 2 = Rs.27,500/-.

15. In view of the fact that she is aged about 19 years and there appears some malunion, the compensation under the head of loss of amenities is enhanced to Rs.40,000/-.

16. The compensation awarded under the remaining heads do not require any enhancement.

17. Thus, the petitioner is entitled for a total compensation under the following heads:

| Sl.No. | Heads | Compensation |
|---|---|---|
| 1. | Loss of future income | Rs.2,37,600/- |
| 2. | Pain and suffering | Rs.20,000/- |
| 3. | Medical Expenses | Rs.1,845/- |
| 4. | Loss of income during laid up period | Rs.27,500/- |
| 5. | Food and nourishment, conveyance & attendant charges | Rs.10,000/- |
| 6. | Loss of amenities | Rs.40,000/- |
| | **Total** | **Rs.3,36,945/-** |
| | **Less the amount awarded by the Tribunal** | **Rs.1,75,845/-** |
| | **Enhancement** | **Rs.1,61,100/-** |

18. In the result, the appeal deserves to be allowed in-part. Hence, the following:

ORDER

(i) The appeal is allowed in part.

(ii) The appellant/petitioner is entitled for a sum of Rs.1,61,100/- in addition to the compensation awarded by the Tribunal, along with interest at 6% p.a. from the date of petition till its deposit.

(iii) The respondent No.2-Insurance company is directed to deposit the compensation amount within a period of six weeks from the date of this order.

(iv) Rest of the order of the Tribunal stands unaltered.

Sd/-
**(C M JOSHI)**
**JUDGE**

SDU
LIST NO.: 1 SL NO.: 44
CT: AK