**IN THE HIGH COURT OF KARNATAKA,**

**KALABURAGI BENCH**

**DATED THIS THE 18TH DAY OF MARCH, 2025**

**BEFORE**

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

**MISCL. FIRST APPEAL NO. 201846 OF 2019 (MV-I)**

**C/W**

**MISCL. FIRST APPEAL NO. 201847 OF 2019 (MV-I**

**IN MFA NO.201846/2019:**

**BETWEEN:**

SRI. PARASHURAM
S/O SHARANAGOUDA VANDAL,
AGED ABOUT 27 YEARS, OCC: COOLIE,
R/O HUVIN-HIPPARAGI, TQ. B. BAGEWADI,
DIST. VIJAYAPUR.

...APPELLANT

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

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

**AND:**

1. SRI. BASAVARAJ S/O MALLAPPA HADAGALLI,
   AGE: MAJOR, OCC: TRANSPORT BUSINESS,
   R/O MASHABINAL, TQ. B. BAGEWADI,
   DIST. VIJAYAPUR-586 203.

2. THE MANAGER LEGAL,
   CHOLAMANDALAM MS GENERAL INSURANCE CO.
   LTD., #9, ALSOOR ROAD,
   BENGALURU-560 001.

3. SRI. CHANNAPPA S/O MAHADEVAPPA SAJJAN,

AGE: MAJOR, OCC: BUSINESS,
R/O KUDARI SALODAGI, TQ. B. BAGEWADI,
DIST. VIJAYAPUR-586 203.

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

…RESPONDENTS

(BY SRI. VIRANAGOUDA BIRADAR, ADV. FOR R1;
SRI. MANJUNATH MALLAYYA SHETTY, ADV. FOR R2;
SRI. SUDARSHAN M., ADV. FOR R4;
R3-SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO ENHANCE THE COMPENSATION AMOUNT PAYABLE TO HIM BY SUITABLY MODIFYING THE JUDGMENT AND AWARD DATED 31.07.2019 PASSED BY THE HON'BLE PRINCIPAL SENIOR CIVIL JUDGE AND MEMBER, MACT-V, VIJAYPUR, IN MVC NO.1380/2016.

**IN MFA NO.201847/2019:**

**BETWEEN:**

SRI. ASHOK S/O DHANAPPA KUMBAR,
AGED ABOUT 48 YEARS, OCC: AGRICULTURE,
R/O HUVIN-HIPPARAGI, TQ. B. BAGEWADI,
DIST. VIJAYAPUR.

…APPELLANT

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

**AND:**

1. SRI. BASAVARAJ S/O MALLAPPA HADAGALLI,
   AGE: MAJOR, OCC: TRANSPORT BUSINESS,
   R/O MASHABINAL, TQ. B. BAGEWADI,
   DIST. VIJAYAPUR-586 203.

2. THE MANAGER LEGAL,
   CHOLAMANDALAM MS GENERAL INSURANCE CO.
   LTD., #9, ALSOOR ROAD, BENGALURU.

3. SRI. CHANNAPPA S/O MAHADEVAPPA SAJJAN,
   AGE: MAJOR, OCC: BUSINESS,
   R/O KUDARI SALODAGI, TQ. B. BAGEWADI,
   DIST. VIJAYAPUR-586 203.

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

…RESPONDENTS

(BY SRI. MANJUNATH MALLAYYA SHETTY, ADV. FOR R2;
SRI. SUDARSHAN M., ADV. FOR R4;
R1 AND R3 ARE SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO ENHANCE THE COMPENSATION AMOUNT PAYABLE TO HIM BY SUITABLY MODIFYING THE JUDGMENT AND AWARD DATED 31.07.2019 PASSED BY THE PRL. SENIOR CIVIL JUDGE AND MEMBER MACT-V, VIJAYAPUR, IN MVC NO.1386/2016.

THESE APPEALS, COMING ON FOR FINAL HEARING, 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)

These two appeals by the petitioners arise out of the common judgment and award in MVC No.1380 and MVC No.1386 of 2016 dated 31.07.2019 by the learned Principal Senior Civil Judge and Member, MACT, Vijayapura.

2. On 08-04-2016, at about 7.00 p.m., the petitioners in both the cases boarded a Piaggio bearing No.KA.29.A.8934 to go to Huvinhipparagi, and near the land of one Shantagouda Patil, a tractor trailor unit (TTU for short) bearing No.KA.28.TB.2597 and 2598 came from opposite direction and dashed to the Piaggio. The petitioner Parashuram, (in MVC No.1380/2016) suffered fracture of right femur, lacerated wound over the right eye, abrasion and few other minor injuries. The petitioner-Ashok (in MVC No.1386/2016) suffered fracture of medial malleolus of the left ankle and abrasion over knee and other injuries and were shifted to Bijapur Multi specialty

Hospital, Vijayapura. The petitioner-Parashuram claimed that he was aged 24 years, earning Rs.10,000/- per month by doing vegetable business and due to the accidental injuries he suffered disabilities resulting in depleted income. The petitioner- Ashok claimed that he was aged 45 years, doing vegetable business and earning Rs.15,000/- per month and has suffered the disabilities.

3. On service of notice, respondent Nos.1 and 2, who are the owner and insurer of Piaggio bearing No.KA.29.A.8934 and respondent Nos.3 and 4 who are the owner and insurer of TTU appeared before the Tribunal. Only the respondent Nos.2 to 4 filed their written statement and resisted the petitions.

4. Respondent No. 2 contended that there was no negligence on the part of the driver of Piaggio vehicle and termed the compensation claimed as highly exorbitant and imaginary. It also denied the age, occupation and income of the petitioners. Respondent No.2 alleged that the driver

of Piaggio was not having valid driving licence and there were violations of terms and conditions of the policy and as such, its liability be absolved.

5. Respondent Nos.3 and 4 contended that there was no negligence on the part of the driver of TTU and termed the compensation claimed as highly exorbitant and imaginary. They also denied the age, occupation and income of the petitioners. Respondent No.3 also contended that the TTU was driven by a driver having a valid driving licence and therefore, respondent No.4 has to bear the liability that may be fastened upon respondent No.3. Respondent No.4 contended that driver of TTU was not having valid driving licence and there were violations of terms and conditions of the policy and as such, its liability be absolved.

6. On the basis of the above contentions, the Tribunal framed appropriate issues and a common enquiry was held in both the petitions. The petitioners were

examined as PWs 1 and 2 and the same Doctor who assessed the disability was examined as PWs.3 and 4 separately and Exhibits P1 to P16 were marked in evidence. The official of respondent No.2- Insurance Company was examined as RW1 and Exhibits R1 to 3 were marked.

7. After hearing the arguments by both the sides, the Tribunal has awarded the compensation of Rs.98,599/- and Rs.68,000/- in both the petitions as below:

**In MVC No.1380/2016 (MFA No.201846/2019)**

| | |
|---|---|
| Pain and suffering | Rs. 35,000/- |
| Medical expenses | Rs. 43,599/- |
| Loss of future unhappiness | Rs. 10,000/- |
| Conveyance, food and nourishment and other incidental charges | Rs. 10,000/- |
| Total | Rs.98,599/- |

**In MVC No.1386/2016 (MFA No.201847/2019)**

| | |
|---|---|
| Pain and suffering | Rs. 25,000/- |
| Medical expenses | Rs. 23,000/- |
| Loss of future unhappiness | Rs. 10,000/- |
| Conveyance, food and nourishment and other incidental charges | Rs. 10,000/- |
| Total | Rs. 68,000/- |

8. Being aggrieved by the same, the petitioner-Parashsuram in MVC No.1380/2016 has approached this Court in MFA No.201846/2019 and petitioner-Ashok in MVC No.1386/2016 has approached this Court in MFA No. 201847/2019.

9. On issuance of notice, respondent Nos. 1,2 and 4 have appeared through their respective counsels and respondent No.3 was served with notice but did not appear in MFA No.201846/2019 and respondent Nos.2 and 4 appeared through their respective counsels and respondent Nos.1 and 2 served in MFA No.201847/2019 but did not appear.

10. The arguments by learned counsel for the appellants and learned counsel for respondents in both the appeals were heard.

11. The learned counsel appearing for the appellants would submit that the compensation awarded by the Tribunal in both the petitions is on the lower side

and it requires reassessment. It is contended that the Tribunal has not considered the disability assessed by the Medical Officer, in the proper perspective of the functionality of the petitioners. Hence, he urged for enhancement of the compensation.

12. *Per contra*, the learned counsel appearing for respondent No.4 would submit that the compensation awarded by the Tribunal is proper and there is no need for enhancement of the same. He points out that the injuries suffered are minor in nature.

13. A careful perusal of the records insofar as MVC No.1380/2016 is concerned, would show that petitioner-Parashuram had suffered fracture of the shaft of the right femur and abrasion over the right thigh and lacerated wound over the right eye. The testimony of PW3 would show that he had restrictions of the movement in the right leg and therefore, he opines that there is a disability of 12% to the limb. The Tribunal has not awarded any

compensation under the head of loss of future income due to disability. It is worth to note that when there is evidence on record to show that there is disability of 12% structured formulae should have been applied by the Tribunal. Considering the avocation and age of the petitioner, this Court holds the functional disability at 4%. Sofar as the income is concerned, there being absolutely no material on record, notional income has to be adopted. The guidelines issued by the Karnataka State Legal Services Authority in respect of the settlement of disputes before the Lok Adalat prescribe the notional income of Rs.8,750/- per month for the year 2016. This Court in umpteen number of cases has held that the said guidelines issued by the KSLSA for settlement of disputes in Lok Adalat is in conformity with the minimum wages fixed under the Minimum Wages Act. Therefore, the notional income of the petitioner in both the petitions has to be considered at Rs.8,750/- per month for the year 2016. Hence, loss of future income is calculated as: 8750/-x 12 x 18 x 4% = 75,600/- by adopting multiplier of 18.

Consequently, the loss of income during the laid up period is calculated for three months at Rs.26,250/-.

14. Considering the nature of injuries suffered by the petitioner, the compensation under the head of pain and sufferings, medical expenses, do not require any enhancement. The compensation under the head of conveyance, food and attendants charges require enhancement to Rs.20,000/-. The compensation under the head of loss of amenities in life is enhanced to Rs.25,000/- Therefore, the petitioner-Parashuram is entitled for a sum of Rs.2,25,449/- under the following heads:

| | |
|---|---|
| Pain and suffering | Rs. 35,000/- |
| Medical expenses | Rs. 43,599/- |
| Loss of amenities in life | Rs. 25,000/- |
| Conveyance, food and nourishment and other incidental charges | Rs. 20,000/- |
| Loss of future income | Rs. 75,600/- |
| Loss of income during laid up period | Rs. 26,250/- |
| Total<br>Less: Awarded by the Tribunal<br>Enhancement | Rs.2,25,449/-<br>Rs. 98,599/-<br>**Rs.1,26,850/-** |

15. A careful perusal of the records insofar as MVC No.1386/2016 is concerned, would show that petitioner-Ashok had suffered fracture of medial malleolus of left ankle and abrasion over the left knee. The testimony of PW4 would show that he has restrictions of the movement of the left ankle and therefore, he opines that there is a disability of 8% to the left lower limb. The Tribunal has not awarded any compensation under the head of loss of future income due to disability. It is worth to note that when there is evidence on record that there is disability of 8% structured formulae should have been applied by the Tribunal. Considering the avocation and age of the petitioner, this Court holds the functional disability at 3%. Hence, loss of future income is calculated as: 8750/- x 12 x 14 x 3% = 44,100/- by adopting multiplier of 14. Consequently, the loss of income during the laid up period is calculated for three months at Rs.26,250/-.

16. Considering the nature of injuries suffered by the petitioner, the compensation under the head of pain

and sufferings, medical expenses, do not require any enhancement. The compensation under the head of conveyance, food and attendants charges require enhancement to Rs.15,000/-. The compensation under the head of loss of amenities in life is enhanced to Rs.20,000/- Therefore, the petitioner-Ashok is entitled for a sum of Rs.1,53,350/- under the following heads:

| | |
|---|---|
| Pain and suffering | Rs. 25,000/- |
| Medical expenses | Rs. 23,000/- |
| Loss of amenities in life | Rs. 20,000/- |
| Conveyance, food and nourishment and other incidental charges | Rs. 15,000/- |
| Loss of future income | Rs. 44,100/- |
| Loss of income during laid up period | Rs. 26,250/- |
| Total<br>Less: Awarded by the Tribunal<br>Enhancement | Rs.1,53,350/-<br>Rs. 68,000/-<br>**Rs. 85,350/-** |

17. In the result, the appeals filed by the petitioners deserve to be allowed in-part. Hence, the following:

ORDER

(i) The appeals are allowed in part.

(ii) The appellant/petitioner-Parashuram is entitled for a sum of Rs.1,26,850/- and petitioner-Ashok is entitled for a sum of Rs.85,350/- 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) Respondent No.4-United India Insurance Company Limited 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 remain unaltered.

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

tsn*
List No.: 1 Sl No.: 61
CT: AK