IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 14TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISC. FIRST APPEAL NO.200843 OF 2021 (MV-I)

BETWEEN:

SMT. SHANTABAI W/O GANGAYYA GUTTEDAR,
AGE: 55 YEARS, OCC: COOLIE AND HOUSEHOLD,
R/O: ANDOLA, TQ. JEWARGI, DIST. KALABURAGI,
NOW RESIDING AT YEDRAMI VILLAGE,
TQ. JEWARGI, DIST. KALABURAGI-585 101.

…APPELLANT

(BY SRI. BABU H. METAGUDDA, ADVOCATE)

AND:

1. GANGAYYA S/O THIMMAYYA GUTTEDAR,
   AGE: MAJOR, OCC: BUSINESS,
   R/O: H.NO.5/10, YEDRAMI VILLAGE,
   TQ: JEWARGI, DIST. KALABURAGI-585 101,
   (OWNER OF VEHICLE BOLERO NO.KA-32/N-5722).

2. THE MANAGER,
   ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD.,
   THROUGH ITS BRANCH MANAGER,
   DOOR NO.3, PLOTS NO.40 AND 41,
   MAHANTH ARCADE, MAHANTH NAGAR,
   KALABURAGI-585 103.

…RESPONDENTS

(BY SRI. SUDARSHAN M., ADV. FOR R2;
V/O DTD. 31.08.2021, NOTICE TO R1 IS DISPENSED WITH)

Digitally signed by LUCYGRACE
Location: HIGH COURT OF KARNATAKA

THIS MFA IS FILED UNDER SECTION 173 (1) OF THE MOTOR VEHICLES ACT, PRAYING TO ALLOW THIS APPEAL AND MODIFY THE JUDGMENT AND AWARD DATED 04.12.2019 PASSED IN M.V.C.NO.665/2016 BY THE I ADDL. SENIOR CIVIL JUDGE AND MACT, AT KALABURAGI AND ENHANCING THE COMPENSATION FROM Rs.1,74,400/- WITH 6% INTEREST TO RS.14,20,000/- WITH 12% INTEREST.

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 for the appellant and the respondent No.2.

02. Being aggrieved by the judgment and award in MVC.No.665/2016 dated 04.12.2019 by the I Addl. Senior Civil Judge and MACT, at Kalaburagi, seeking enhancement of the compensation.

03. The petitioner had suffered injuries of hematoma over scalp, traumatic brain injury and there was a swelling over the right side of scalp. For such injury PW.2 had given a permanent physical impairment to the extent of 25%. The Tribunal having considered these injuries has awarded a compensation of Rs.1,74,800/- and accepted the disability at 8%.

04. Being aggrieved by the said judgment and award, the petitioner is before this Court.

05. The arguments by the learned counsel appearing for the appellant and the respondent No.2 were heard.

06. After hearing the learned counsels, this Court suggested that the matter may be settled before the Lok-Adalath.

07. The learned counsel for the petitioner submits that the party may not be agreeable for the same. Therefore, the matter is taken up for disposal.

08. After having a detailed perusal of the impugned judgment and after having considered the injuries suffered by the petitioner, the Tribunal has properly assessed the disability at 8%. No fault can be found in respect of the same. However, the Tribunal had assessed the notional income of the deceased at Rs.7,000/- per month. The accident having occurred on 30.03.2015. The notional income should have been considered around Rs.8,000/- per month. Having regard to these aspects, it would be a fit case where a global enhancement of Rs.40,000/- has to be awarded, which would also cover the compensation under the head of deprivation of future amenities.

09. In that view of the matter, the petitioner is entitled for a sum of Rs.40,000/- in addition to the compensation awarded by the Tribunal.

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

O R D E R

I. The appeal is allowed in part.

II. The appellant is entitled for a sum of Rs.40,000/- 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 disbursement remain unaltered.

The learned counsel for the respondent No.2 – insurance company is permitted to file Vakalath within two weeks.

Sd/-
(C M JOSHI)
JUDGE

KJJ
List No.: 1 Sl No.: 56
CT: AK