

# IN THE HIGH COURT OF KARNATAKA, KALABURAGI BENCH

# DATED THIS THE 21<sup>ST</sup> DAY OF AUGUST, 2025

# **BEFORE**

#### THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

# MISCL. FIRST APPEAL NO. 200517 OF 2021 (MV-I) C/W MISCL. FIRST APPEAL NO. 200626 OF 2020

### IN M.F.A.NO.200517/2021

#### **BETWEEN:**

VEERANNA S/O DANDAPPA ALUR,

AGE: 43 YEARS,

OCC: MEDICAL SHOP BUSINESS AND

AGRICULTURE NOW NIL, R/O: VILLAGE PALA,

TQ: AND DIST: KALABURAGI

NOW R/AT: JAINAGAR KALABURAGI.

...APPELLANT



(BY SRI SANJEEV PATIL, ADVOCATE)

## **AND:**

1. RAVINDRA

S/O ANNARAO INGIN,

AGE: MAJOR,

OCC: NOT KNOW,

R/O: H.NO.4601, NEW EXTENSION AREA,

M.B. NAGAR, KALABURAGI – 585 104.

2. THE DIVISIONAL MANAGER, UNITED INDIA INSURANCE CO. LTD., DIVISIONAL OFFICE, 2<sup>ND</sup> FLOOR,



CENTURY COMPLEX, OPP. SANGAM TALKIES, SUPER MARKET, KALABURAGI - 585 102. ...RESPONDENTS

(BY SRI J. AUGUSTIN, ADVOCATE FOR R2; NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT PRAYING TO MODIFY THE JUDGMENT AND AWARD PASSED BY THE II ADDL. SENIOR CIVIL JUDGE AND MACT, KALABURAGI IN MVC NO.280/2019 DATED 28.01.2020 BY ENHANCING THE COMPENSATION AS PRAYED FOR, IN THE INTEREST OF JUSTICE AND EQUITY.

## IN M.F.A.NO.200626/2020

#### **BETWEEN:**

THE DIVISIONAL MANAGER, UNITED INDIA INSURANCE CO. LTD., DIVISIONAL OFFICE, 2<sup>ND</sup> FLOOR, CENTURY COMPLEX, OPP. SANGAM TALKIES, SUPER MARKET, KALABURAGI - 585 102.

...APPELLANT

(BY SRI J.AUGUSTIN, ADVOCATE)

#### AND:

1. VEERANNA

S/O DANDAPPA ALUR,

AGE: 42 YEARS,

OCC: MEDICAL SHOP BUSINESS AND

AGRICULTURE NOW NIL,

R/O: VILLAGE PALA,

TQ: AND DIST: KALABURAGI

NOW R/AT: JAINAGAR KALABURAGI - 585 104.

2. RAVINDRA

S/O ANNARAO INGIN,

AGE: MAJOR,

B C HC-KAR

NC: 2025:KHC-K:4829 MFA No. 200517 of 2021 C/W MFA No. 200626 of 2020

OCC: NOT KNOW,

R/O: H.NO.4601, NEW EXTENSION AREA, M.B. NAGAR, KALABURAGI – 585 104.

...RESPONDENTS

(BY SRI SANJEEV PATIL, ADVOCATE FOR R1; NOTICE TO R2 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 28.01.2020 PASSED IN M.V.C.NO.280/2019 BY THE II ADDITIONAL SENIOR CIVIL JUDGE AND M.A.C.T., KALABURAGI, REDUCING THE QUANTUM OF COMPENSATION AND ETC.

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

#### **ORAL JUDGMENT**

1. MFA No.200517/2021 is filed by the claimant seeking enhancement of the compensation. MFA No.200626/2020 is filed by the Insurance Company challenging the quantum of compensation awarded. The impugned award in both the appeals is dated 28.01.2020 passed in MVC No.280/2019 by the II Additional Senior Civil Judge, Kalaburagi (for short 'the tribunal').



- 2. Heard the learned counsel for the claimant and the learned counsel for the Insurance Company in both the appeals.
- 3. Learned counsel for the appellant/claimant would contend that, the appellant/claimant was running a medical shop and also was doing agricultural work and considering the same, the income taken by the tribunal is on lower side. He further submits that, the disability stated by the Doctor -P.W.2 is 31.77% and the tribunal has taken the disability at 11.00% and the same is not proper and correct. The claimant has sustained fracture of lower end of right radius and he was admitted in hospital for three days and there is a surgery wherein, an implant is fixed and it requires to be removed. Considering the same, the compensation awarded for pain and suffering, loss of income during laid up period, loss of amenities and attendant charges are on lower side. As the claimant requires surgery for removal of implant, he is entitle for future medical expenses. The tribunal has not awarded future medical expenses. With this, he prays for enhancement of compensation.

- 4. Learned counsel for the Insurance Company submits that, the injury i.e. fracture has not affected the income of the claimant as he is running medical shop and prays for reducing the compensation awarded by the tribunal.
- 5. Having heard the learned counsels, this Court has perused the impugned Judgment and the trial Court records.
- 6. The accident has taken place in the year 2019. As per the chart prepared for settlement of disputes in Lok Adalath, the notional income for the year 2019 is Rs.13,250/- per month. Therefore, the income taken by the tribunal is on lower side. The claimant was running a medical shop and was also doing agricultural work. Therefore, the income has to be taken at Rs.13,250/- as per the chart.
- 7. The claimant has sustained fracture of lower end of right radius and he underwent surgery and an implant has been fixed. P.W.2 is the Doctor who assessed the disability and issued disability certificate as per Ex.P.8, wherein the disability is stated as 37.77%. The tribunal has taken

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disability at 11.00%. The claimant was not only doing business of medical shop, but was also doing agricultural work. Therefore, the disability has affected his income. Therefore, the contention of the learned counsel for the Insurance Company cannot be accepted. The age of the claimant as on the date of the accident is 42 years and considering the same, the multiplier '14' taken by the tribunal is proper and correct. Considering the same, loss of future income would be as under:

$$Rs.13,250/- X 12 X 14 X 11\% = Rs.2,44,860/-$$

- 8. The claimant has sustained one fracture and underwent a surgery and an implant is fixed. Considering the same, the compensation awarded by the tribunal for pain and suffering in a sum of Rs.20,000/- is on lower side. The claimant is entitle for compensation of Rs.30,000/- towards pain and sufferings.
- 9. The claimant has been admitted in the Hospital for three days and he underwent surgery and considering the same, he is entitle for loss of income during laid up period



for three days in a sum of Rs.13,250/-  $\times$  3 days = Rs.39,750/-.

- 10. Considering the fracture sustained and age of the claimant, loss of amenities as awarded by the tribunal in a sum of Rs.10,000/- is on lower side. The claimant is entitle for loss of amenities in a sum of Rs.20,000/-.
- 11. The claimant has been admitted in Hospital for three days and therefore, he is entitle for attendant charges, food and conveyance charges in a sum of Rs.1,000/- per day, i.e. Rs.1,000/- X 3 days = Rs.3,000/-. The Doctor who examined the claimant and issued Ex.P.8 disability certificate i.e. P.W.2 has stated in his certificate and also in his evidence that, there is a need for removal of implant fixed and expenses for the same is Rs.60,000/- to Rs.70,000/- in private hospitals. Considering the fact that, the claimant requires surgery for removal of the implant, he is entitle for future medical expenses of Rs.30,000/-. The medical expenses awarded by the tribunal in a sum of Rs.42,200/- is proper and correct.



12. Considering the above aspect, the claimant is entitle for the following compensation:

SI.No.	Heads of compensation	Compensation awarded by this Court
1	Future loss of income	Rs.2,44,860/-
2	Pain and sufferings	Rs.30,000/-
3	Laid up period (Rs.13,250 X 3)	Rs.39,750/-
4	Attendant charges	Rs.3,000/-
5	Loss of amenities	Rs.20,000/-
6	Medical expenses	Rs.42,200/-
7	Future medical expenses	Rs.30,000/-
	Total	Rs.4,09,810/-

- 13. Hence, the claimant is entitle for total compensation of Rs.4,09,810/-, as against Rs.2,68,500/-awarded by the tribunal.
  - 14. In view of the above, the following:

# <u>ORDER</u>

- (i) MFA No.200626/2020 filed by the Insurance Company is dismissed;
- (ii) MFA No.200517/2021 filed by the claimant is allowed in-part;
- (iii) The claimant is entitle for total compensation of Rs.4,09,810/- as against Rs.2,68,500/- awarded by the tribunal;

- (iv) The rate of interest on the compensation and order of deposit passed by the tribunal remains unaltered;
- (v) The Insurance Company shall deposit the compensation amount with interest within a period of six weeks from this day, failing which it is liable to pay interest at the rate of 9% per annum, till payment;
- (vi) The amount deposited by the Insurance Company is ordered to be transmitted to the tribunal.

Sd/-(SHIVASHANKAR AMARANNAVAR) JUDGE

SVH

List No.: 1 Sl No.: 22