

IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH

DATED THIS THE 8TH DAY OF SEPTEMBER 2021

BEFORE

THE HON'BLE MR. JUSTICE V. SRISHANANDA

MFA NO.22203/2009 c/w MFA CROB NO.792/2010 (MV)

IN MFA NO.22203/2009:

BETWEEN

ARJUN MALLAPPA HADAPAD
AGE:30 YRS, OCC:STUDENT AND AGRICULTURE,
R/O VASAN, TQ:NARAGUND, DIST. GADAG

...APPELLANT

(BY SRI. D B KARIGAR, ADV.)

AND

1 . ARJUN PARAPPA HADAPAD
AGE:25 YRS, OCC:STUDENT AND AGRICULTURE
R/O JUNIPETH, RAMDURG,
DIST. BELGAUM AND ANOTHER

2 . THE NATIONAL INSURANCE CO.LTD
RENUKA ARCADE, STATION ROAD, GADAG 532101,
THROUGH ITS DIVISIONAL OFFICE
AT RAMDEV GALLI, BELGAUM

...RESPONDENTS

(BY SRI.H.M. DHARIGOND, ADV. FOR R1,
SRI.RAVINDRA A. CHOUGULE, ADV. FOR R2)

THIS MFA IS FILED U/S 173(1) OF MV ACT, 1988 AGAINST
THE JUDGMENT AND AWARD DATED: 24/03/2009 PASSED IN
M.V.C.NO.2813/2003 ON THE FILE OF THE LEARNED CIVIL JUDGE
(SR.DN) AND ADDITIONAL M.A.C.T. RAMDURG, PARTLY ALLOWING

THE CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

IN MFA CROB NO.792/2010:

BETWEEN

ARJUN PARAPPA HADAPAD
AGE: 26 YEARS, OCC: AGRICULTURE
R/O JUNIPETH RAMDURG, TQ: RAMDURG
DISTRICT : BELGAUM

...CROSS OBJECTOR

(BY SRI. H M DHARIGOND, ADV.)

AND

1 . ARJUN MALLAPPA HADAPAD
AGE: MAJOR, OCC: AGRICULTURE
R/O VASAN, TQ: NARAGUND, DIST: GADAG

2 . THE NATIONAL INSURANCE CO.LTD
RENUKA ARCADE, STATION ROAD, GADAG-532101,
THROUGH ITS DIVISIONAL OFFICE,
AT RAMADEV GALLI, BELGAUM

...RESPONDENTS

(BY SRI.P.G.CHIKKANARAGUND, ADV. FOR
SRI.C.R.MENASINAKAI, ADV. FOR R1,
SRI.RAVINDRA A. CHOUGULE, ADV. FOR R2)

THIS MFA CROB. IS FILED U/O 41 RULE 22 R/W. SEC. 151 OF
CPC, AGAINST THE JUDGMENT AND ORDER DATED: 24-03-2009
PASSED IN MVC.NO.2813/2003 ON THE FILE OF THE CIVIL JUDGE
(SR.DN.) & ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL,
RAMDURG, PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS MFA AND MFA CROB COMING ON FOR HEARING THIS
DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

Heard Sri.D.B.Karigar and Sri.H.M.Dharigond.

2. The owner of the offending vehicle and the claimant have filed this appeal and the cross objection challenging the validity of the judgment and award passed in MVC No.2813/2003 on the file of the Addl. MACT, Ramadurga dated 24.03.2009.

3. The brief facts of the case are as under:

A claim petition came to be filed under Section 166 of the Motor Vehicles Act contending that on 07.05.2013 at about 09 a.m. when claimant and his brother was proceeding to their land on Vasan Konnur road for their agricultural operation, at that juncture, when they reached near the land of Huligeri, driver of a tractor bearing No.KA-29/T-7084 drove the tractor in a rash and negligent manner and dashed against the claimant, whereby he fell down and sustained fracture of shaft of

femur and other injures and he was shifted to the government hospital at Ramdurga and then he took treatment in the private hospital and therefore sought for awarding suitable compensation.

4. The claim petition was resisted by filing written statement. The Tribunal raised necessary issues and after considering the oral and documentary evidence on record, allowed the claim petition in a sum of Rs.87,000/-.

5. Sri.D.B.Karigar, learned counsel appearing for the owner of the tractor vehemently contended that the accident as contended by the claimant has not at all happened and the Tribunal has not looked into the oral and documentary evidence in its proper perspective and unnecessarily saddled the liability on the owner of the tractor and prayed for allowing the appeal. He also contended that the quantum of compensation awarded by

the Tribunal is on the higher side and therefore sought for reducing the quantum of compensation.

6. Per contra, Sri.H.M.Dharigond, learned counsel for the claimant contended that the Tribunal has not taken into consideration the disability factor in a proper perspective and so also monthly income and sought for reasonable enhancement.

7. In view of the rival contentions of the parties, the following points that would arise for consideration are:

"1. Whether the owner of the offending tractor bearing No.KA-29/T-7084 makes out a case for dismissal of the claim petition or in the alternative to reduce the quantum of compensation?"

2. Whether the claimant has made out a case for enhanced compensation?"

8. In the case on hand, the accidental injuries sustained by the claimant Sri.Arjun Parappa Hadpad on 07.05.2003 at about 09.00 a.m. involving the tractor

bearing No.KA-29/T-7084 stands established by the oral and documentary evidence on record. The medical evidence clearly establish that there is a fracture of shaft of right femur to the extent of 1/3rd and the claimant has sustained physical disability as per the disability certificate marked at Ex.P7.

9. The material available on record also depict that in respect of the accident initially there was a panchayat convened and in the panchayat there was a decision as to the appropriate quantum of compensation to be paid. However, the owner of the tractor having failed to adhere to the settlement terms of the panchayat, the claimant was constrained to approach the Tribunal. One of the panchayatdaars is also examined before the Court as PW.3. He categorically deposed about the accident and the panchayat being convened in respect of the compensation to be paid and settlement terms. On behalf of the owner of the tractor, though PW3

has been cross-examined at length, no useful material is elicited so as to establish that there was no accident at all. Tribunal after taking note of all these aspects of the matter held that Arjun Hadpad sustained accidental injuries on account of the rash and negligent driving of the tractor. Admittedly the tractor did not have insurance at all as on the date of the accident. Therefore, the liability fasted on the owner of the tractor.

10. Insofar as quantum of compensation is concerned, Tribunal has taken into consideration the principles of law existed for computing the quantum of compensation as on the date of passing the award and awarded a sum of Rs.87,000/-.

11. Having regard to the only one fracture being suffered and only 10% disability is there for the particular limb that too assessed by a non treating Doctor, this Court is of the considered opinion that the quantum of

compensation in a sum of Rs.87,000/- is just compensation in the facts and circumstances of the present case. Accordingly, no case is made out for the enhancement of the compensation. Hence, point Nos.1 and 2 are answered in negative and the following order is passed.

ORDER

MFA No.22203/2009 and MFA CROB No.792/2010 are hereby dismissed.

Amount in deposit, if any, is ordered to be transmitted to the Tribunal.

Balance amount is to be deposited by the owner within a period of four weeks from the date of receipt of certified copy of this order.

Sd/-
JUDGE

Rsh