

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 12TH DAY OF JANUARY, 1998

BEFORE

THE HON'BLE MR. JUSTICE CHIDANANDA ULLAL

M.F.A.NO. 315/1994.

Between :

Sri. Rajabhavu Parashram  
Khannukar, major, Occ.  
student, R/of Margai Galli,  
Belgaum.

.. APPELLANT

(By Sri. M.B.Nargund for applt.)

A n d :

1. Jotiba Gundu Chougule,  
major, occ. service,  
R/o. Mannur, Tq. Belgaum.

2. The New India Assurance  
Co. Ltd., Belgaum branch,  
Belgaum by its Branch  
Manager.

.. RESPONDENTS

(By Sri. R.U.Goulay for R.1 and Sri.  
C.K.Kambeyanda for R.2.)

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MFA filed u/s. 173 of the M.V.Act against  
the judgment and award dt.7-10-93 in MVC No. 1232/88  
passed by the MACT-II, at Belgaum, partly allowing  
the claim petition for compensation.

This MFA coming on for hearing this day, the  
Court delivered the following :

#### J U D G M E N T

This is a claim by the injured to challenge  
the judgment and award dt. 7-10-93 in MVC No.1232/88  
passed by the Motor Accidents Claims Tribunal - II,



Belgaum, whereunder the said Claims Tribunal had awarded a global compensation of Rs.20,000/- as against the total claim of Rs.2,50,500/-.

2. I heard the learned Counsel for the appellant Sri. M.B.Nargund. The second respondent Insurance Co. is represented by Sri. Chinnappa Kambeyanda. The respondent No. 1 is represented by Sri. R.U.Goulay. On behalf of Sri. Chinnappa Kambeyanda, Sri. Krishnamurthy represented him in the case before me.

3. The grievance of the claimant - petitioner is that despite there being multiple fractures to his right thigh bone and head injury, the Motor Accidents Claims Tribunal (henceforth in brief referred to as the MACT) had awarded a sum of Rs.10,000/- towards loss of amenities, Rs.7,000/towards pain and sufferings and a sum of Rs.3,000/towards medical expenses. <sup>As we see</sup> The MACT had also awarded interest at 6% p.a. on the said amount awarded by it. According to Sri. Nargund, the said amount was paltry and disproportionate to the injuries suffered by <sup>the Appellant</sup> him, the medical expenses the father of the claimant expended on him and further for loss of amenities, future prospects with the



shortening of his leg by half an inch, effecting both in life as well as in his marital prospects. According to Sri. Nargund, a global compensation of Rs.1,00,000/- would have been just and proper compensation in the facts and circumstances of the case. Therefore, he prayed that the impugned judgment and award passed by the MACT be modified accordingly.

4. The learned Counsel appearing for the contesting respondent No. 2 - Sri. Krishnamurthy appearing for Sri. Chinnappa Kambeyanda on the other hand while supporting the impugned judgment and award passed by the MACT submitted that the father of the petitioner who had represented the appellant/claimant herein had not produced the medical evidence to show that he was entitled to for more than what was granted by the MACT under the head 'medical expenses' or in other words, he had supported the impugned judgment and award passed by the MACT. In the alternative he submitted that even if the appellant - claimant is entitled to <sup>✓ for higher compensation</sup> ~~Rs.1,00,000/-~~, it shall be a marginal raise to an extent of about Rs.4,000/- to Rs.5,000/-.



5. It is not in dispute in this case that the appellant claimant had suffered multiple fractures on his right thigh bone and in addition to that he had also suffered head injuries. It is also not in dispute that immediately after admission of the appellant claimant to the local hospital, he had to be discharged to be taken to Kolhapur and that he had been treated there at Kolhapur Medical Centre, Kolhapur. If it is so, in my considered view, the award of compensation under the above three heads is on the lower side and in my considered view the appellant - claimant was entitled to for the following sums under the different heads :

Injuries pain and suffering	Rs.30,000/-
Towards medical expenses	Rs.10,000/-
Loss of amenities in life	Rs.10,000/-
Loss of future prospects in life including marital prospects with the shortening of his leg by half an inch.	Rs.20,000/-

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Rs.70,000/-  
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6. The appellant - claimant is also entitled to for interest at 9% p.a. from the date of petition down to the date of payment of compensation amount.

*CS*

7. The impugned judgment and award passed by the MACT therefore stands modified in terms of the above. Let the Registry pay the above sum with interest from the date of petition to the date of payment within a period of 8 weeks from this day before the MACT after giving deduction for deposits made, if any, before this Court or the MACT below. The Registry is also directed to transfer any sum if deposited in the appeal by the respondents to the MACT below immediately.

8. In the result, the appeal stands allowed but in part as above. No cost.

mgn/-

Sd/-  
Judge