

IN THE HIGH COURT OF KARNATAKA

CIRCUIT BENCH AT DHARWAD

DATED THIS THE 17TH DAY OF APRIL 2012

BEFORE

THE HON'BLE MR.JUSTICE SUBHASH B. ADI

M.F.A.No. 23379/2009 (MV)

C/W

M.F.A.No. 20036/2010

BETWEEN

IFFCO TOKIO GENERAL INSURANCE CO.LTD.,
ESS UNIT, KSCHF BUILDING
3RD FLOOR, 3RD BLOCK,
8, CUNNINGHAM ROAD,
BANGALORE-560 052.

..APPELLANT
(COMMON IN BOTH APPEALS)

(BY SRI.:VITTHAL S. TELI , ADV. FOR
SRI.RAVINDRA A. CHAUGULE, ADV.)

AND

1. BABU GANGAPPA BANDEKAR,
AGE: ABOUT 57 YEARS,
OCC: KEB MECHANIC
R/O. MUNAVALLI, TQ:SAUNDATTI,
DIST:BELGAUM.
 2. SMT.KASHAVVA W/O. GANGAPPA AJJAPPANAVAR,
AGE:MAJOR, OCC:AGRICULTURE,
R/O. HANAMAGERI ONI, SAUNDATTI,
TALUKA:SAUNDATTI, DIST:BELGAUM.
- .. RESPONDENTS

(BY SRI. :N.P.VIVEKMEHTA, ADV. FOR R-1;
SRI. :P.G.CHIKKANARAGUND, ADV. FOR R-2)

MFA FILED U/S 173(1) OF MV ACT, 1988, AGAINST THE
JUDGMENT AND AWARD DATED:26/06/2009 PASSED IN MVC
NO.69/2003 ON THE FILE OF THE ADDL.MACT, SAUNDATTI

AWARDING THE COMPENSATION OF RS.2,17,000/- ALONG WITH INTEREST AT THE RATE OF 6% P.A., FROM THE DATE OF PETITION TILL THE REALIZATION.

M.F.A.No. 20036/2010

AND

1. SURESH HANAMANTAPPA INCHAL
AGE: ABOUT 26 YEARS,
OCC: KEB EMPLOYEE,
R/O. RAMPUR SITE, TQ: SAUNDATTI,
DIST:BELGAUM
2. SMT.KASHAVVA W/O. GANGAPPA AJJAPPANAVAR,
AGE: MAJOR, OCC:AGRICULTURE,
R/O. HANAMAGERI ONI, SAUNDATTI,
TALUKA:SAUNDATTI, DIST:BELGAUM.

... RESPONDENTS

(BY SRI. SATISH B. MALAGOUDAR, ADV. FOR R-1)

MFA FILED U/S 173(1) OF MV ACT, 1988, AGAINST THE JUDGMENT AND AWARD DATED:08/09/2009 PASSED IN MVC NO.1593/2003 ON THE FILE OF THE ADDL.CIVIL JUDGE (SR.DN.) SAUNDATTI AWARDING THE COMPENSATION OF RS.1,12,600/- WITH INTEREST AT THE RATE OF 6% P.A., FROM THE DATE OF PETITION TILL THE REALIZATION.

THESE MFAs' COMING ON FOR HEARING ON IA, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

J U D G M E N T

These two appeals are by the insurer against the judgment and award in M.V.C.Nos.69/2003 dated 26.6.2009 and M.V.C.No.1593/2003 dated 8.9.2009 on the file of M.A.C.T., Saundatti.

Sri

2. In both the appeals, insurer has questioned the liability and quantum of compensation awarded by the Tribunal.

3. Liability is challenged on the ground that the driver of the offending vehicle had no licence in M.V.C.No.69/2003. The insurer had filed an application I.A.No.6 *inter alia* seeking summoning of the record from the ARTO office to produce the driving licence of the driver of the offending vehicle. When the said application was allowed, the driving licence was produced. That driving licence was belonging to one Gadigeppa Gangappa Somannavar. He had driving licence from 9.3.2005 to 8.3.2025. However, in the FIR, the name of the driver is mentioned as Gadigeppa Gangappa Ajjappanavar and not Somannavar and no document is produced to show that the said person had no driving licence.

4. Learned Counsel for the appellant submits that the initials of both the persons are one and the same. Even assuming that, the licence was available from 2005 to 2025, but that does not mean that he did not had a licence in 2002. I do not find there is any error in the finding of the Tribunal as far as driving licence is concerned.



5. As far as quantum of compensation in M.V.C.No.69/2003 is concerned, admittedly the claimant is a Government employee and question of awarding compensation on the head of loss of future income does not arise except disability. Rs.90,000/- has been awarded on the head of loss of future earning. Claimant has not produced anything to show that, either his salary is reduced or he has lost the monetary benefit on account of the injury. Having regard to the same, compensation is required to be reduced by Rs.90,000/-. Accordingly, claimant is entitled for compensation of Rs.1,27,000/- with interest.

6. As far as quantum of compensation in M.V.C.No.1593/2003 is concerned, compensation has been awarded at Rs.1,12,600/-. Considering the same, I do not find there is any error in the judgment and award of the Tribunal.

Accordingly, M.F.A.N.23379/2009 is partly allowed. Compensation is reduced to Rs.1,27,000/- with interest. M.F.A.No.20036/2010 is dismissed.



The proportional amount be transferred to the Tribunal
and the remaining amount be refunded to the appellant.

Sd/-
JUDGE

KNM/-

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