

IN THE HIGH COURT OF KARNATAKA  
DHARWAD BENCH

DATED THIS THE 20<sup>TH</sup> DAY OF SEPTEMBER 2013

BEFORE

THE HON'BLE MR.JUSTICE K.L.MANJUNATH

**M.F.A. No. 21170/2010 (MV)**

**BETWEEN:**

Shri Gurunath Shankar Janbotkar,  
Age: 40 years, occ.: Driver-cum  
Owner of 709 Goods Vehicle,  
R/o Kudremani, Tq. & Dist.: Belgaum.

- Appellant

(By Sri Harish S. Maigur, Advocate)

**A N D:**

1. Shri Ramesh Keshav Desai,  
Age: Major, Occ.: business,  
R/o H. No. 1449, Prabhu Wada  
Calangute, Bardez Goa,  
Goa-403 521, Dist.: Goa (North).

2. The United India Insurance Co. Ltd.,  
Of: Mascarenhas Building, 2<sup>nd</sup> floor,  
M.G. Road, Panjim-Goa, its Divisional  
office at Maruti Galli, Belgaum.

- Respondents

(By Sri Sanjay S. Katageri, Advocate for R1,  
Sri M.G. Gadagoli, Advocate for R2)

This Miscellaneous First Appeal is filed under  
Section 173(1) of the M.V.Act, against the judgment  
and award dated 27.01.2010 passed in MVC  
No.1664/2008 on the file of the III Additional MACT,  
Belgaum.

This Appeal coming for admission on this day, the Court delivered the following:

**JUDGMENT**

1. The claimant being not satisfied with the compensation awarded to him by the M.A.C.T, Belgaum in M.V.C. No.1664/2009 dated 27.01.2010 the present appeal is filed.

2. The accident is not in dispute and the liability is not in dispute. In a road traffic accident occurred on 11.07.2008 at about 5.45 p.m. while the claimant riding his motorcycle from Belgaum to Kudremane near Vijay Nagar, an on-coming qualis car bearing no. GA-01/R-2273 dashed against the motorcycle of the appellant, as a result of which he sustained four injuries, i.e., (1) abrasion on the Rt. Frontal region: 5 cm x 5 cms. Red; (2) Contused abrasion over sternal angle 6 cms x 5 cms tender; (3) tenderness outer aspect Land Tribunal. Writs with contusion, 6 cm x 6 cms; and (4) Tenderness

over the middle of Lt. Clavicle. X-ray disclose fracture in respect of injury no.3 and 4. Therefore, the claim petition was filed. The Tribunal has awarded a sum of Rs.1,05,000/- on all the heads. Being not satisfied with the same the present appeal is filed.

3. Having heard the counsel for the appellant and the learned counsel for the Insurance Company this court is of the opinion the compensation awarded under the head injury, pain & suffering in a sum of Rs.10,000/- is on the lower side when the appellant had sustained two fractures and two injuries. Therefore, under the aforesaid heads he is entitled for another sum of Rs.25,000/-. When the appellant was working as a driver the Tribunal has awarded a sum of Rs.6,000/- towards loss of income during the period of treatment, which, according to the Court, is on the lower side and he

is entitled for a further sum of Rs.5,000/- towards the aforesaid head. Considering his age and nature of disability the amount of compensation of Rs.10,000/- towards loss of amenities is on the lower side and he is entitled for another Rs.15,000/-. In all, the claimant is entitled for Rs.45,000/- as enhanced compensation from the date of petition till the date of payment.

In the result, the appeal is allowed in part. In addition to the compensation awarded by the M.A.C.T, Belgaum in M.V.C. No.1664/2008, the appellant is entitled for enhanced compensation of Rs.45,000/- with interest at 6% p.a. from the date of petition till the date of realisation. The enhanced compensation shall be released to the claimant.

**Sd/-  
JUDGE**

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