

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**DATED THIS THE 19<sup>TH</sup> DAY OF APRIL, 2012

BEFORE

**THE HON'BLE MR. JUSTICE B.SREENIVASE GOWDA**Miscellaneous First Appeal No. 2984 of 2009 (MV)**BETWEEN**

A. M. VENKATESH,  
S/O. MANJEGOWDA ,  
AGED ABOUT 41 YEARS,  
R/AT. ADUVALLY EXTN.,  
HASSAN CITY.

... APPELLANT

(By SMT. KAVITHA H. C., ADV. &  
SRI. PRAKASHA H. C., ADV.)

**AND**

1. THE BRANCH MANAGER,  
UNITED INDIA INSURANCE CO. LTD.,  
BRANCH OFFICE,  
VENKATESHWARA BUILDING,  
P. B. NO. 108, HASSAN - 573 201.
2. SMT. T. P. PUSHPAVATHI,  
W/O. C. N. BASAVARAJ,  
MAJOR,  
SARASWATHIPURAM,  
HASSAN TALUK.

... RESPONDENTS

(By Sri. K. N. SRINIVAS, ADV. FOR R.1,  
R.2 NOTICE DISPENSED WITH)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 20.11.2007 PASSED IN MVC NO.1958/2006 ( OLD NO.1123/2001) ON THE FILE OF PRESIDING OFFICER & ADDITIONAL MACT, FAST TRACK COURT-I, HASSAN, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

### J U D G M E N T

This appeal is by the claimant seeking enhancement of compensation awarded by the Tribunal.

2. As there is no dispute regarding injuries sustained by the claimant in a road traffic accident occurred on 26.06.1997 due to rash and negligent driving of Ambassador car bearing registration No. CNX 2515 by its driver and liability of the insurer of the offending vehicle, the only point that remains for my consideration in the appeal is:

Whether quantum of compensation awarded by the Tribunal is just and proper or does it call for enhancement?

3. As per Ex. P 2, Mangala Nursing Home Card and Ex. P 4 a certificate issued by Mangala Nursing Home claimant had sustained fracture on his left knee joint. But it was not supported either by producing an X ray or examining any doctor.

4. Considering the nature of injuries and treatment taken by the claimant Rs.25,000/- awarded by the Tribunal towards pain and suffering is just and proper and there is no scope for enhancement under this head.

5. Claimant has produced medical bills for Rs.3,288/-. He was treated as inpatient for 5 days. Considering the same Rs.10,000/- is awarded towards medical and incidental expenses such as conveyance, nourishment and attendant charges as against Rs.8,288/- awarded by the Tribunal.

6. The claimant claims to have been earning Rs.5,000/- per month, but it is not established by producing any document. In the absence of proof of income his income is assessed at Rs.3,000/- per

month. Nature of injuries suggests that he must have been under rest and treatment at least for a period of 3 months and therefore Rs.9,000/- is awarded towards loss of income during laid up period.

7. In the absence of examining the doctor and producing disability certificate no compensation could be awarded towards loss of amenities and loss of future income.

8. Thus the claimant is entitled for the following compensation:

1)	Pain and suffering	Rs. 25,000/-
2)	Medical and Incidental expenses	Rs. 10,000/-
3)	Towards loss of income during laid up period	Rs. 9,000/-
	<b>Total</b>	<b>Rs. 44,000/-</b>
	<b>Less compensation awarded By the Tribunal</b>	<b>Rs. 33,288/-</b>
	<b><u>Additional compensation comes to Rs. 10,712/-</u></b>	

9. Accordingly the appeal is allowed in part and the judgment and award of the Tribunal is modified to the extent stated herein above. The claimant is entitled for an additional compensation of Rs.10,712/- with

interest at 6% p.a. from the date of claim petition till the date of realisation.

10. The Insurance Company is directed to deposit the additional compensation amount together with interest within two months from the date of receipt of a copy of this judgment and the same is ordered to be released in favour of the claimant.

No order as to costs.

Sd/-  
**JUDGE**

Vb/-