

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 20<sup>TH</sup> DAY OF APRIL, 2012

BEFORE

THE HON'BLE MR. JUSTICE B. SREENIVASE GOWDA

M.F.A. NO.3469/2009 (MVC)

BETWEEN

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 GOWRAMMA  
 W/O HANUMANTHAPPA  
 AGED ABOUT 37 YEARS  
 R/O NO 11/16,  
 APPAYANNAKALAYANAMANTAPA  
 VIJAYANAGARA 2ND STAGE  
 BANGALORE

.. APPELLANT

(BY SRI N M HANDRAL, ADV.)

AND :

1 E.A.JYOTHI  
 E V AJAPPA  
 AGED MAJOR  
 VIJAYANAGARA, HOSADURGA TALUK  
 HOSADURGA  
 CHITRADURGA DISTRICT

2 REGIONAL MANAGER  
 THE NEW INDIA ASSURANCE CO LTD  
 REGIONAL OFFICE NO 2(B)  
 ANNEXE BUILDING, MISSION ROAD  
 BANGALORE-27

... RESPONDENTS

(BY SRI K N SRINIVASA, ADV. FOR R2  
 R1 SERVED)

MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:06.11.2006 PASSED IN MVC NO.6397/2007 ON THE FILE OF VII ADDITIONAL JUDGE, COURT OF SMALL CAUSES, MEMBER, MACT, BANGALORE, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL COMING ON FOR ORDERS 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. Heard, the appeal is admitted and with the consent of learned counsel appearing for parties, it is taken up for final disposal.

3. For the sake of convenience, the parties are referred to as they are referred to in the claim petition before the Tribunal.

4. As there is no dispute regarding injuries sustained by the claimant in a road traffic accident occurred on 30.7.2007 due to rash and negligent

driving of the offending bus bearing registration No.KA-25-A-9575 by its driver and liability of the insurer of the offending vehicle, the only point that arises for my consideration in the appeal is:

"whether compensation of Rs.1,20,700/- with interest at 6% p.a. awarded by the Tribunal is just and reasonable or does it call for enhancement?"

5. After hearing the learned counsel appearing for parties and perusing the judgment and award of the Tribunal, I am of the view that the compensation awarded by the Tribunal is not just and reasonable, it is on the lower side and hence it is required to be enhanced.

6. The claimant has sustained LS spine of LF L5 bones and other simple injuries. The injuries sustained by the claimant are evident from the wound certificate Ex.P-6, X-rays Exs.P-5 and supported by

oral evidence of the claimant and doctor, who were examined as PWs-1 and 8 respectively. PW-2, doctor in his evidence has stated that the claimant has suffered disability of 10% to the whole body.

7. Considering the nature of injuries, Rs.30,000/- awarded by the Tribunal towards 'pain and suffering' is on the lower side and it is deserved to be enhanced by another Rs.10,000/- and I award **Rs.40,000/-** under this head.

8. The claimant has produced medical bills for Rs.1,277/-. She was treated as inpatient in Victoria Hospital. Considering the same, a sum of **Rs.10,000/-** is awarded towards 'medical and incidental expenses' as against Rs.6,300/- awarded by the Tribunal.

9. The claimant claims to have been earning a sum of Rs.3,000/- per month. The nature of injuries suggest that she must have been under rest and

treatment for a period of 4 months and therefore a sum of **Rs.12,000/-** is awarded towards 'loss of income during laid up period' as against Rs.9,000/- awarded by the Tribunal.

10. Considering the disability stated by the doctor and an amount of discomfort and unhappiness the claimant has to undergo in her future life, **Rs.25,000/-** awarded by the Tribunal towards 'loss of amenities' is just and proper and there is no scope for enhancement under this head.

11. The claimant is aged about 35 years at the time of accident, and the multiplier applicable to her age group is 16. Her income is assessed at Rs.3,000/- p.m. PW-2, doctor in his evidence has stated that claimant has suffered disability of 10% to the whole body. Therefore, the 'loss of future income' works out to **Rs.57,600/-** ( $3000 \times 12 \times 16 \times 10/100$ ) and it is

awarded as against Rs.50,400/- awarded by the Tribunal.

12. Considering the nature of injuries, a sum of **Rs.10,000/-** is awarded towards 'future medical expenses'.

13. Thus, the claimant is entitled for the following compensation:-

	HEADS	Rs.
1	Pain and sufferings	40,000
2	Medical and incidental expenses	10,000
3	Loss of income during laid up period	12,000
4	Loss of amenities	25,000
5	Loss of future income	57,600
6	Future medical expenses	10,000
	<b>TOTAL</b>	<b>1,54,600</b>
	<b>LESS:</b> Compensation awarded by the Tribunal	<b>1,20,700</b>
	<b>BALANCE</b>	<b>33,900</b>

14. Accordingly, the appeal is allowed-in-part. The judgment and award passed by the Tribunal is modified to the extent stated herein above. The

claimant is entitled for an additional compensation of **Rs.33,900/-** with interest at 6% p.a from the date of claim petition till the date of realisation

15. 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. From which, Rs.20,000/- with proportionate interest is ordered to be invested in fixed deposit in the name of claimant in any Nationalised Bank/ Scheduled Bank/ Post Office for a period of 5 years renewable once in 2 years and with a right of option to withdraw interest periodically. Remaining amount with proportionate interest is ordered to be released in favour of the claimant immediately after the deposit.

No order as to costs.

Sd/-  
JUDGE