



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2024

BEFORE

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

MISCELLANEOUS FIRST APPEAL NO.5584 OF 2023(MV-I)

BETWEEN:

SRI. SHIVAKUMAR R.,
S/O RANGANATHA,
AGED ABOUT 37 YEARS,
WORKING AS A SERVICE ADVISER,
OFFICE. SHRUTHI MOTORS,
MARUTHI CAR SHOW ROOM,
SHIVAMOGGA.-577 201
R/O RANGANATHAPPA (GUNDAPPA)
DEVANAHALLI POST,
BHADRAVATHI,
SHIVAMOGGA 577 201

...APPELLANT

(BY SRI. M.V. MAHESWARAPPA, ADVOCATE)

AND:

1. ABDUL SAMADH,
S/O MOHAMMED KUNJI BABA,
AGED ABOUT 34 YEARS,
R/O KALANDHAR NAGAR,
4TH CROSS, RENTED HOUSE OF
SADHAR SAB, ARALIHALLI VILLAGE,
BHADRAVATHI TALUK.
2. JAKAVULLA,
S/O. HUSAIN SAB,
AGED ABOUT 33 YEARS,
AGRICULTURIST,





R/O NEW MOHALLA,
DONABHAGATTA VILLAGE,
BHADRAVATHI TALUK,
SHIVAMOGGA DISTRICT-577 201.

3. THE MANAGER
SHRI RAMA GENERAL INSURANCE
CO. LTD.,
E-8, SITHAPURA INDUSTRIAL AREA,
JAIPURA,
RAJASTHAN STATE - 640 061.

...RESPONDENTS

(BY SRI. A.N. KRISHNASWAMY, ADVOCATE FOR R3;
NOTICE TO R1 AND R2 IS D/W, V/O/D 17.08.2023)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 12.06.2023 PASSED IN MVC
NO.323/2022 ON THE FILE OF THE IV ADDITIONAL DISTRICT
AND SESSIONS JUDGE AND MACT -IV, SHIVAMOOGA SITTING
AT BHADRAVATHI, PARTLY ALLOWING THE CLAIM PETITION
FOR COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

Heard Sri.M.V.Maheswarappa learned counsel for the
appellant and Sri.A.N.Krishna Swamy learned counsel for
respondent No.3.



2. On the ground that the sum awarded as compensation by the Motor Accidents Claims Tribunal-IV, Shivamogga through orders in M.V.C.No.323/2022 dated 12.06.2023 is grossly low, this appeal is filed by the claimant therein.

3. Sri.M.V.Maheswarappa representing the appellant submits that appellant sustained grievous injuries in a road traffic accident and out of those injuries one is to the head. Learned counsel states that the appellant was taking treatment even while the proceedings before the tribunal were going on. Learned counsel states that as the appellant could not evince interest in the matter as he was under medication, he could not gather the relevant documents and adduce all the medical evidence to establish the aspect of disability. Learned counsel also states that in the absence of sufficient medical evidence being produced, the tribunal awarded a meager sum of Rs.15,000/- as compensation.



4. Learned counsel submits that he filed an application before this Court vide IA No.1/2024 seeking the Court to receive the additional documents produced. Learned counsel thereby seeks to remand the matter to the tribunal permitting the appellant to adduce additional evidence.

5. Sri.A.N.Krishna Swamy, learned counsel for respondent No.3 submits that though the appellant moved an application vide IA No.1/2024 for production of additional documents, as the genuineness of those documents should be tested through cross examination of the author of those documents, it would be better if the matter is remanded back to the tribunal concerned.

6. Liability to establish the eligibility to receive the demanded amount as compensation would always be upon the claimants. In this case, the version of the appellant/claimant is that due to head injury sustained and the treatment being taken, he could not adduce the relevant medical evidence in support of his claim. As



against the claim for Rs.15,60,000/-, the tribunal awarded a sum of Rs.15,000/- as compensation. Thus, having considered the submission that is made by Sri.M.V.Maheswarappa learned counsel for the appellant and as this Court is of the view that the claimant should not suffer, holds that the matter is required to be remanded back to the tribunal concerned according permission to both parties to adduce their evidence regarding the entitlement of the appellant to receive compensation to the extent claimed.

7. Thus, the appeal is disposed of with the following

ORDER

- i. The appeal is allowed in part.
- ii. M.V.C. No.323/2022 which stood pending before the Motor Accidents Claims Tribunal-IV, Shivamogga is remanded back to the same tribunal.
- iii. The tribunal is directed to accord opportunity to both parties to adduce evidence regarding the sum



claimed and render fresh order basing on such evidence.

- iv. Parties are directed to appear either in person or through their counsel before the tribunal on 18.01.2025.
- v. No further notice is required to be issued.
- vi. IA No.1/2024 stands disposed of.

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

VS
List No.: 1 Sl No.: 7