

Nanjundappa vs Rajappa

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Court : Karnataka

Decided On : Mar-02-2026

Judge : Vijaykumar a. Patil

Appeal No. : MFA/7094/2019

Appellant : Nanjundappa

Respondent : Rajappa

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF MARCH, 2026 BEFORE THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL MISCELLANEOUS FIRST APPEAL NO.7094 OF 2019(MV-I) BETWEEN: NANJUNDAPPA, S/O HANUMANTHAPPA, AGED ABOUT 44 YEARS, R/A HAMALI WORK, NOW NO WORK, R/O 12TH CROSS, BHARATH COLONY, DAVANAGERE- 577 001. APPELLANT (BY SRI. GOPALAKRISHNA MURTHY.C., ADVOCATE) Digitally signed by AASEEFA PARVEEN AND: Location: HIGH COURT OF KARNATAKA 1. RAJAPPA, S/O NINGAPPA, AGED ABOUT 34 YEARS, R/A GOLLARAHALLI VILLAGE,

BHARAMASAGAR, CHITRADURGA TALUK AND DIST- 577 501. -2-

2. HALESH K. H., S/O UCCHENGEPPI, AGED ABOUT MAJOR, RESIDING AT KANDANAKOVI VILLAGE, DAVANAGERE TALUK AND DIST - 577 001.

3. THE DIVISIONAL OFFICER, THE UNITED INDIA ASSURANCE CO. LTD., DIVISIONAL OFFICE, NO.34/3, MMK COMPLEX, AKKAMAHADEVI ROAD, P.J. EXTENSION, DAVANAGERE RESPONDENTS (BY SRI. C. SHANKAR REDDY, ADVOCATE FOR R3; R1 AND R2- NOTICE DISPENSED WITH, V/O. DATED 12.06.2025) THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE

JUDGMENT AND AWARD DATED 07.12.2016, PASSED IN MVC

NO.931/2015, ON THE FILE OF THE I-ADDITIONAL SENIOR CIVIL JUDGE AND V-ADDITIONAL MACT, DAVANGERE, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION. THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,

JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL -3-

ORAL JUDGMENT

This appeal is filed by the injured/claimant seeking for higher compensation challenging the judgment and award dated 07.12.2016 passed in MVC No.931/2015 by the I Additional Senior Civil Judge and V Additional Motor Accident Claims Tribunal, Davanagere.

2. Heard Sri.Gopalakrishnamurthy.C, learned counsel for the appellant and Sri.C.Shankar Reddy, learned counsel for respondent No.3.

3. Learned counsel for the appellant submits that

the Tribunal has erred in assessing the income of the injured at Rs.3,000/- without appreciating the fact that the injured was doing Hamali work and earning more than Rs.15,000/- per month. It is submitted that the Tribunal has erred in assessing the disability at 11% which is contrary to the oral evidence of PW.2. It is submitted that the award of compensation by the Tribunal on all other -4- heads is required to be re-assessed appropriately by allowing the appeal. Hence, he seeks to allow the appeal.

4. Per contra Sri.C.Shankar Reddy, learned

counsel appearing for respondent No.3 supports the impugned judgment and the award of the Tribunal and submits that the appellant has failed to produce any evidence before the Tribunal with regard to the income. It is submitted that the appellant has sustained only one fracture and considering the same, the Tribunal has justified in assessing the disability at 10% which does not call for any modification. He submits that award of compensation by Tribunal on all other heads is fair and proper. Hence, he seeks to dismiss the appeal.

5. I have heard the arguments of learned counsel for the appellant, learned counsel for the respondent and meticulously perused the material available on record. -5-

6. The only point that arise for consideration in this appeal is "whether the impugned judgment and award of the Tribunal calls for any interference?"

7. The aforesaid point is answered in the

'affirmative' for the following reasons: The material on record indicates that the appellant met with an accident on 16.01.2015 and sustained fracture and injuries. He was provided treatment at CG Hospital, Davanagere and he was inpatient from 20.01.2015 to 22.02.2015. It is not in dispute that the accident is caused due to the negligence of the respondent No.2 and the vehicle involved in the accident was insured by respondent No.3/insurance company. It is to be noticed that the claim petition is filed by the claimant contending that he is a Hamali by vocation and was earning Rs.10,000/- per month. The Tribunal assessed the income of the injured at

Rs.6,000/- per month. It is not in dispute that except oral testimony of the claimant, no evidence -6- were placed before the Tribunal to substantiate the income of Rs.10,000/-. Hence, this Court notionally assessed the income of the injured at Rs.9,000/- per month placing reliance on the notional income chart prepared by the Karnataka State Legal Services Authority.

8. It is to be noticed that the claimant examined

himself as PW.1, examined PW.2-doctor and got marked Ex.P1 to Ex.P14 to substantiate the claim for compensation. The respondent examined RW.1 and got marked Ex.R1 to Ex.R5. The Tribunal considering the oral and documentary evidence, fastened the liability on the insurance company and ordered to pay compensation Rs.2,01,086/- along with interest at the rate of 8% per annum from the date of petition till realisation of the amount. It is to be noticed that the appellant/injured sustained following injuries: a) Tenderness present over the lower b) X-ray of right leg left ankle old fracture at distal 3rd shaft of right tibia. -7- which is evident from Ex.P5-Wound Certificate issued by CG Hospital, Davangere and also from the oral testimony of PW.2. Considering the evidence on record, I am of the considered view that the disability of the appellant is required to be re-assessed at 12%, taking note of the injury suffered by the appellant and treatment provided to him. Having re-assessed the income and disability the compensation is also required to be reassessed and the same is accordingly re-assessed as under:

Sl.	Description	Amount
No 1	Pain and suffering	Rs.40,000
2	Loss of income during laid up period	Rs.27,000 (Rs.9000 x 3)
3	Medical bills	Rs.5,086
4	Loss of future earnings due to disability	Rs.1,94,400 (Rs.9,000 x 12 x 15 x 12%)
5	Loss of amenities	Rs.30,000
-8- 6	Conveyance, attendant charges, food and nourishment	Rs.20,000
	Total	Rs.3,16,486

9. In the result, the Court proceeds to pass the following:

ORDER

(i) Appeal is allowed in part.

(ii) The impugned judgment and award of the

Tribunal is modified to an extent that the claimant would be entitled to a total compensation of Rs.3,16,486/- as against Rs.2,01,086/- awarded by the Tribunal.

(iii) The enhanced compensation amount shall

carry interest at the rate of 6% p.a. from the date of petition till the date of deposit except for the period of delay of 1185 days as per orders in IA No.1/2021.

(iv) Respondent No.3-insurance company is directed to deposit the enhanced compensation amount with accrued -9- interest before the Tribunal within a period of 6(six) weeks from the date of receipt of certified copy of this judgment.

(v) Insofar as apportionment, deposit and release of compensation is concerned, the award of the Tribunal is unaltered.

(vi) Draw modified award accordingly. Sd/- (VIJAYKUMAR A. PATIL) JUDGE NS
CT:TSM List No.: 1 SI No.: 32

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