

The Manager vs Amena. B

The Manager vs Amena. B

SooperKanoon Citation : sooperkanoon.com/1896729

Court : Karnataka

Decided On : Jul-08-2024

Judge : K.Natarajan

Appeal No. : MFA/3437/2022

Appellant : The Manager

Respondent : Amena. B

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JULY, 2024 BEFORE THE HON'BLE MR JUSTICE K.NATARAJAN MISCELLANEOUS FIRST APPEAL NO. 3437 OF 2022(MV-I) C/W MISCELLANEOUS FIRST APPEAL NO. 3436 OF 2022(MV-I) C/W MISCELLANEOUS FIRST APPEAL NO. 5694 OF 2022(MV-I) C/W MISCELLANEOUS FIRST APPEAL NO. 5695 OF 2022(MV-I) IN MFA NO.3437/2022 BETWEEN: THE MANAGER REGIONAL OFFICE, ICICI LOMBARD GIC LTD., NO.121, THE ESTATE BUILDING, Digitally signed by 9TH FLOOR, DICKSON ROAD, VEDAVATHI A K BANGALORE - 42. Location: High Court of Karnataka

APPELLANT (BY SRI. PRADEEP B., ADVOCATE) AND:

1. AMENA B D/O BASHA SAHEB, AGED ABOUT 25 YEARS, R/AT REHAMATHNAGAR, BOMMANAHALLI, BALAGANGADHARANATHANAGAR, NAGAMANGALA TALUK,, MANDYA DISTRICT. -2-

2. SANTOSH KUMAR K R S/O RAMAPPA K S., NO.193/A, 4TH MAIN ROAD, 5TH CROSS, DOLLARS LAYOUT, 4TH PHASE, BANGALORE - 78. RESPONDENTS (BY SRI. NAIK KRISHNA VENKATRAMAN., ADVOCATE FOR R1; SRI. D MANJUNATH, ADVOCATE FOR R2) THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER

SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 20.11.2021 PASSED IN MVC NO.4253/2018 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES, MEMBER, PRL. MACT, BENGALURU SCCH-1, AWARDED COMPENSATION OF RS.6,64,930./- WITH INTEREST AT 6 PERCENT P.A. ON RS.6,39,930/- FROM THE DATE OF PETITION TILL REALIZATION. IN MFA NO.3436/2022 BETWEEN: THE MANAGER REGIONAL OFFICE, ICICI LOMBARD GIC LTD., NO.121, THE ESTATE BUILDING, 9TH FLOOR, DICKSON ROAD, BANGALORE - 42. APPELLANT (BY SRI. PRADEEP B., ADVOCATE) AND:

1. YOGESH B S/O BASAVARAJU, AGED ABOUT 31 YEARS, R/AT VIRUPAPURA VILLAGE, KANATHUR POST, HASSAN DISTRICT. -3-

2. SANTOSH KUMAR K R S/O RAMAPPA K S., NO.193/A, 4TH MAIN ROAD, 5TH CROSS, DOLLARS LAYOUT, 4TH PHASE, BANGALORE - 78. RESPONDENTS (BY SRI. NAIK KRISHNA VENKATRAMAN., ADVOCATE FOR R1; SRI. D MANJUNATH, ADVOCATE FOR R2) THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER

SECTION 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 20.11.2021 PASSED IN MVC NO.4252/2018 ON THE

FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES, MEMBER, PRL. MACT, BENGALURU (SCCH-1), AWARDED COMPENSATION OF RS.1,20,000./- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL REALIZATION. IN MFA NO.5694/2022 BETWEEN: AMENA B D/O BASHA SAHEB, AGED ABOUT 25 YEARS, R/AT REHAMATHNAGAR, BOMMANAHALLI, BALAGANGADHARANATHANAGAR, NAGAMANGALA TALUK,, MANDYA DISTRICT. APPELLANT (BY SRI. NAIK KRISHNA VENKATRAMAN, ADVOCATE) AND:

1. THE MANAGER ICICI LOMBARD GENERAL INSURANCE CO. LTD., -4- NO.121, THE ESTATE BUILDING, 9TH FLOOR, DICKENSON ROAD, M G ROAD, BENGALURU - 12. (INSURER OF OFFENDING VEHICLE, MARUTHI ZEN CAR BEARING NO. KA-05-ME-7565)

2. MR. SANTOSH KUMAR K R S/O RAMAPPA K S., MAJOR R /AT NO.193/A, 4TH MAIN ROAD, 5TH CROSS, DOLLARS LAYOUT, 4TH PHASE, BENGALURU - 560 078. RESPONDENTS (BY SRI. PRADEEP B., ADVOCATE FOR R1; SRI. MANJUNATH D., ADVOCATE FOR R2) THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER

SECTION 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 20.11.2021 PASSED IN MVC NO.4253/2018 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES, MEMBER, PRL. MACT, BENGALURU (SCCH-1), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION. IN MFA NO.5695/2022 BETWEEN: YOGESH B S/O BASAVARAJU, AGED ABOUT 31 YEARS, R/AT VIRUPAPURA VILLAGE, KANATHUR POST, HASSAN DISTRICT. APPELLANT (BY SRI. NAIK KRISHNA VENKATRAMAN, ADVOCATE) -5- AND:

1. THE MANAGER

ICICI LOMBARD GENERAL INSURANCE CO. LTD., NO.121, THE ESTATE BUILDING, 9TH FLOOR, DICKENSON ROAD, M G ROAD, BENGALURU - 12. (INSURER OF OFFENDING VEHICLE, MARUTHI ZEN CAR BEARING NO. KA-05-ME-7565)

2. MR. SANTOSH KUMAR K R S/O RAMAPPA K S., MAJOR, R /AT NO.193/A, 4TH MAIN ROAD, 5TH CROSS, DOLLARS LAYOUT, 4TH PHASE, BENGALURU - 560 078. RESPONDENTS (BY SRI. PRADEEP B., ADVOCATE FOR R1; SRI. D. MANJUNATH, ADVOCATE FOR R2) THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER

SECTION 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 20.11.2021 PASSED IN MVC NO.4252/2018 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES, MEMBER, PRINCIPAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BENGALURU (S.C.C.H-1), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION. THESE APPEALS, COMING ON FOR ADMISSION, THIS DAY, THE COURT DELIVERED THE FOLLOWING: -6-

JUDGMENT

MFA Nos.3437/2022 and 3436/2022 are filed by

the Insurance Company by challenging the liability

passed by the MACT Bangalore, dated 20.11.2021 passed in MVC No.4252/2018 and 4253/2018 by the Court of Chief Judge, Court of Small Causes, Member Prl.Motor Accident Claims Tribunal at Bengaluru (for short hereinafter referred to as 'Tribunal') for seeking enhancement of compensation.

2. Heard the arguments of the learned counsel for the appellants and learned counsel for respondent Nos.1 and 2.

3. The appellant/Insurance Company in MFA No.3437/2022 and 3436/2022 was respondent No.1 in MVC Nos.4252/2018 c/w MVC.No.4253/2018. The respondent

No.1/Yogesh B in MFA No.3436/2022 was petitioner in MVC No.4252/2018 and respondent No.1/Amena B, in MFA No.3437/2022 was the petitioner in MVC No.4253/2018. The respondent No.2 remains same in both petitions and the -7-

appeal. In MFA No.5694/2022, the appellant was petitioner in MVC No.4253/2018 and respondent Nos.1 and 2 are respondents in the petition. The MFA No.5695/2022 is filed by the appellant who was the petitioner in MVC No.4252/2018 and respondent Nos.1 and 2 are respondents in the petition. The MFA Nos.5694/2022 and 5695/2022 are filed by the claimants and the insurance company was the respondent

before the tribunal. The status of the parties before the Tribunal is retained for the sake of convenience.

4. The petitioners in MVC No.4252/2018 and 4253/2018

have filed petition under Section 166 of Motor Vehicles Act (for short M.V. Act) claiming compensation of Rs.10 lakhs and Rs.15 lakhs for injury sustained by them in road traffic accident dated 07.08.2017 at 10.15 p.m. It is alleged that, when the petitioner Yogesh was riding the scooter bearing Reg No.KA-04- HH-4501 along with the pillion rider, the petitioner Amena and when they were proceeding on B.G.Road near M.K.Ahmed Store, Gottigere from North towards South, at that time one Maruthi Zen Car bearing Reg.No.KA-05-ME-7565, came in high speed and negligent manner came from opposite direction took -8- extreme right side of the road in the process of over taking

another vehicle and dashed against the scooter. As a result, both petitioners sustained serious injuries and were taken to the hospital, treated as inpatient and due to the injuries suffered fractures and disabilities. Hence, they have filed claim petition for claiming compensation of Rs.10 lakhs and Rs.15 lakhs respectively.

5. After the service of notice, respondent No.1/Insurance

Company filed statement of objections, by admitting as the insurer of car bearing No.KA-05-ME-7565 and if any liabilities subject to the terms and conditions of the policy and owner not complied the mandatory requirements. Also, section 132 of

Motor Vehicles Act, was not followed in all the documents. Further contended that the accident was due to unknown vehicle and the Maruti car was falsely implicated by the police in the charge sheet. The vehicle was not at all involved in the accident. The petitioner did not have any valid license and further denying age, occupation and medical expenses as false, prayed for dismissal of the appeal. -9-

6. The respondent No.2/Owner of the car also filed

statement of objection stating that petition is not maintainable. There is a fraud committed by the petitioner in connection with connivance of the police by implanting car of the respondent No.2. The respondent No.2 is the RC owner of the car, he has

obtained the package policy. The car was driven by his wife Archana and she is having valid license, the vehicle was not at all involved in the accident, which was planted by the police, at the instance of the petitioner and denying all other averments. The respondent No.2 also taken contention that during 2017, when he was residing in Vakil Town Space, near OTIS circle, Jigani. On 8.8.2017 at 10.30 a.m., the car of the respondent No.2 was driven by his wife while taking turn near the club house, within the layout, she hit the car bearing No.KA 05 MN 6599 which belongs to CT.Chethan. On negotiation respondent No.2 has paid Rs.20,000/- towards the repair charges and they received the same. The respondent No.2 took his car to Bimal Service Station, Bannerghatta road, for repair on 14.7.2017. The respondent No.2 was called to the police station and asked him to leave the car for a week. Hence, when questioned he

was threatened and warned. At that time, vehicle was - 10 - implicated in the accident that occurred on 7.08.2017 after respondent No.2 was asked to take his car back and respondent No.2 was not given a fair opportunity to explain on 8.8.2017. After lapse of 1 year, in July, 2018, the respondent and his wife were asked to bring the passport size photo and Rs.2500/-. Accordingly, himself and his wife signed various documents. Later, they came to know that the charge sheet is filed against them in collusion with the petitioners. The police have misguided the respondent No.2. At no point of time, there was any scientific investigation matching the sketch. The sketch does not reflect about the car. It is mentioned as

unknown car. Hence, prayed for dismissing the petition.

7. Based upon the pleadings, the tribunal framed issues

and additional issues as under:-

1. Whether the Petitioner proves that he sustained

grievous injuries in a Motor Vehicle Accident that occurred on 07-08- 2017 at about 10.15 p.m. near M.K.Ahmed Store, Gottigere, B.G.Road, Bengaluru, within the jurisdiction of Hulimavu Traffic police station on account of rash and negligent driving of Maruthi Zen Car bearing reg, No.KA-05-ME-7565 by its driver ?

2. Whether the petitioner is entitled for compensation? If so, how much and from whom? - 11 -

3. What order? Addl. Issue :

1. Whether the respondent No.2 proves that the Maruthi Zen Car bearing Reg. No.KA-05- ME- 7565 is not involved in the accident ?

8. To prove the case, the petitioners examined as P.W.1. and P.W.2 also examined another witness, the PW3 and PW4

and got marked documents from Exs.P1 to P28. On behalf of the respondent his wife examined as RW1, the investigation officer was examined as RW2, and the Bimal Auto Agency was

examined as RW3. After hearing the arguments, the tribunal answered issue Nos.1 and 2 in affirmative and issue Nos.1 and 2 in the partly affirmative and additional issue No.1 in negative. Accordingly, both the petitions were allowed by awarding compensation of Rs.1,20,000 in MVC No.4252/2018 and in MVC No.4253/2018 for Rs.6,64,930/-.

9. Being aggrieved with the award of compensation and

fastening the liability, the Insurance Company filed - 12 - MFA Nos.3437/22 and 3436/2022 whereas, claimants filed appeals for enhancement of compensation in MFA Nos.5694/2022 and 5695/2022.

10. Learned counsel for the Insurance Company has vehemently contended that the vehicle was not at all involved in the accident. After one year, in the charge-sheet, the police

implicated the vehicle. The respondent No.1 owner of the vehicle, partly contested the matter. The driver of the car, his wife herself was examined and the Investigating Officer was also examined. The garage owner was also examined to prove their contention. In spite of the same, the tribunal wrongly

held the vehicle was involved in the accident, which is not

correct. Therefore, fastening the liability on the car owner and Insurance Company is not correct. The unknown vehicle was involved in the accident, there is no reference regarding the car number and the person who driven the car are mentioned the in the complaint. But by taking some vague sketch of the vehicle of the respondent no.2, the police implicated the vehicle. Therefore, fastening the liability on respondent Nos.1 and 2 is illegal. Hence, prayed for setting aside the same. - 13 -

11. Per contra, learned counsel for the claimant seriously

objected the appeals and contended that though the vehicle was involved in the accident, it was hit and run case. Thereafter, the police traced the vehicle by comparing with the paint belonging to vehicle of respondent No.2 and the paint appeared in the scooters of the petitioners, which was sent to the FSL and later compared with the paint and found, his vehicle was involved. The evidence lead by the respondent is not believed. Hence, prayed for dismissing the petition.

12. The claimant counsel also claimed the owner of the

vehicle, not challenged the fastening of the liability on them and the involvement in the car in the accident. Also contended in the criminal case, the driver who is wife

of respondent No.2 pleaded guilty and had paid fine amount. Such being the case, there is contradictory defense taken by her in both the proceedings. Hence, prayed for dismissing the appeal.

13. Learned counsel also contended regarding quantum of compensation and the tribunal committed error in taking income as well as disability and laid up charges, apart from the - 14 - compensation awarded on the other heads, are all meager. Hence, prayed for enhancing the same.

14. Having heard the arguments, perused the records, the point that arises for my consideration are,

1. Whether tribunal is justified in fixing the liability on respondent nos.1 and 2 alleging that vehicle belongs to respondent No.2 which is involved in accident, in question?

2. Whether, the appellants/claimants are entitled for the enhancement of the compensation if so, what is the amount?

15. On Perusal of the records, especially the petitioner

Nos.1 and 2 have stated in the claim petition, as well as in the evidence, that when they were proceeding on the road, on the date of accident on 07.08.2017 at 10.15 p.m., the car bearing Reg. No.KA-05-ME-7565 came from opposite direction on the right side and dashed the scooter, due to which they fell down and sustained injuries, by that time the car was dented. They have been shifted to the hospital, later intimation was given to the police. The police have recorded the statement, registered the FIR against unknown persons. During the investigation, the

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police have traced the offending vehicle and filed the charge sheet. Therefore, it is contended that the vehicle was driven by the wife of respondent No.2 and respondent No.2 being owner and respondent No.1 being insurer are jointly liable for compensation. To corroborate their evidence, they got marked various documents from Exs.P.1 to P28. The Ex.P1 is the FIR

and complaint. Ex.P2 is Spot Mahazar. Ex.P3 is Seizure

Mahazar. Ex.P.4 is Spot sketch. Ex.P.5&6 are IMV report. Ex.P.7 is the charge sheet. Ex.P.8 is the wound certificate and other documents were medical records for both the claimants, apart from the salary certificate issued by their employee. The respondent No.2 who is owner of the vehicle, though seriously contended that the vehicle was not at all involved in the accident. They have taken the contention that there was one accident caused by the wife of respondent No.2, by touching another vehicle and she had settled the issue by paying Rs.20,000/- by the respondent No.2. On the other hand, the police asked them to provide the documents and photographs and later they asked to produce the photographs and asked to leave the car for a week. Subsequently, they took back the car and later they came to know, the police have falsely implicated

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the car in this accident, where the vehicle was not at all involved in the accident. The RW1/wife of the respondent no.2, given evidence by taking same contention. The RW2 was Inspector police, who filed the chart sheet and summoned to the court and stated, that the vehicle was not involved, but he has turned hostile and not supported her case. The RW3 where the garage person was brought before the court, where he has stated that the vehicle not came for the garage between 12.08.2017 and 14.08.2017. Subsequently, this car came. On perusal of the evidence of the RW3, which is not useful to the respondents case. The RW1 though taken contention denying the involvement of the vehicle, but fact remains in the criminal case, she has admitted the guilty and she said to be paid fine amount in the criminal case. Though she has stated, the story that she has touched another car, there was settlement between the parties. On this point, the police asked to leave vehicle etc., but the fact remains the police had issued notice respondent No.2 and asked to leave the car in the police station. They have taken the colour of the car, scratch mark and the scratched colour available in the victim's vehicle scooter. They were sent to the FSL for comparison, where the

- 17 - report received said to have stated, the paint mark available in the scooty belongs to the claimants car that of paint belongs to car belongs to respondent

no.2. Thereby scientifically connected the offending vehicle with the accident. The tribunal also categorically held, while discussion and held this accident occurred due to negligent driving of the driver of the car, the wife of the respondent. Though there is delay in lodging complaint or delay in tracing the vehicle, that itself is not a ground. The police subsequently caught the vehicle and they were able to show involvement of the vehicle of respondent No.2. Such being the case, the tribunal rightly answered issue

no.1 in affirmative. Though there was a finding against respondent No.2 regarding accident caused by respondent No.2's driver i.e. his wife who was examined as RW1. But after the judgment, they have not filed any appeal before this court by challenging the findings against them held by the tribunal. Whereas, the Insurance Company has filed an appeal against them for defending respondent No.2 who have not filed, though available before tribunal, they have not contested. But after the

contest, the tribunal has given finding. Such being the case, the contention of insurance company that the vehicle was not - 18 - involved in the accident is not acceptable. Thereby answered point No.1 in favour of the claimant as against the respondent- Insurance company.

16. As regards to the computation of compensation, the petitioner in MVC 4252/2018 i.e, rider of the scooter namely Yogesh who sustained injuries as per Ex.P.13, the 5th metacarpal fracture right great proximal phalanx fracture, right

undisplaced iliac bone fracture. Iliac bone fractured in pelvic and taken treatment for 11 days in the hospital, as well as home. He has given conservative management treatment and he is said to be earning Rs.1,000/- per day, as income. Though

he has produced the document, but the pet

Rs.70,000 towards pain and agony, which is sufficient it cannot be said as meager.

17. As regards to disability he has not examined the treating doctor and furnished any disability certificate. Therefore, question of assessing any disability for loss of - 19 - income or question of granting any compensation due to the disability or loss of future earning does not arise.

18. As regards to the Ex.P.15 is the salary certificate, the petitioner said to be not worked for 2 months, as per the

records. When the doctors not examined, disability is not proved and when employee was not examined, the others also not examined. Such being the case, amount required to be taken is notional income. Whereas the tribunal by considering

facts and circumstances of the case, awarded Rs.28,000/-

towards laid up period by calculating loss of income by calculating Rs.14,000/- per month. Of course notional income should be only Rs.11,000/- per month, but they have produced some salary slip, but not able to prove the same. Such being the case, granting Rs.28,000/- to loss of laid up period do not call for any interference.

19. As regards to medical expenses Rs.6,000 was

awarded. Food and nourishment was Rs.11,000/- has been awarded and transportation charges Rs.5,000/- was awarded by the tribunal and it cannot be said it is meager. Therefore, - 20 - the tribunal rightly awarded Rs.1,20,000 to the petitioner in MVC No.4252/2018. Hence, it requires no interference.

20. As regards MVC No.4253/2018, the petitioner is a woman and she is unmarried. She sustained the grievous injuries to left tile type B3 pelvis ring injury. She has

undergone surgery. Internal fixation has been done and nails, screws, plates, rods, wires, nails were found in the body. There were fracture of right femur bone and pelvic ring disrupted and she was hospitalized for 1 month and 7 days in SG hospital. By considering fracture the petitioner has suffered, Rs.1,00,000/- has been awarded by the Tribunal towards the pain and suffering. The same is

sufficient and need not be interfered.

21. As regards the food and nourishment, Rs.49,000/-

has been awarded. The petitioner was admitted in the hospital for 49 days. Considering Rs.1,000/- per day towards income, the said award granted by the Tribunal towards food and nourishment is just and reasonable and there is no need to enhance the same. - 21 -

22. As regards to the transportation charges, the

Tribunal has awarded Rs.5,000/-. The amount spent for taking the petitioner to the hospital from home and thereafter, shifting to other hospitals, the award of Rs.5,000/- granted by the Tribunal is very meagre. Therefore, Rs.15,000/- towards transportation charges is awarded as against Rs.5,000/-.

23. As regards medical expenses, Rs.61,130/- is granted by the Tribunal which is based upon the bills. Therefore, this Court is not inclined to interfere with the said award.

24. As regards the loss of income during the laid up

period, Rs.36,000/- has been awarded by the Tribunal. The petitioner was suffering from pelvic bone fracture. She could have taken treatment for more than three months and she might have taken rest. Therefore, four months towards laid up period is considered. The income of Rs.12,000/- per month is considered by the Tribunal. The employer is not examined, therefore, in the absence of evidence, Rs.12,000/- per month is taken as her income and if it is calculated for four months, it would be Rs.48,000/- towards loss of income during the laid up period. - 22 -

25. As regards future medical expenses, Rs.25,000/- has been granted by the Tribunal which is just and reasonable and no need to interfere with the said award.

26. However, the Tribunal has not awarded any amount

towards the loss of marriage prospects. The petitioner is unmarried, aged about 21 years. Definitely, her marriage prospects would affect her life. Therefore, I propose to award Rs.75,000/- towards marriage prospects.

27. It is to be held that insurance company that there is

no loss of income as there was no need to do job and even the employer is not examined. Document is not proved. Therefore, the question of considering the same does not arise. The petitioner is suffering from pelvic bone fracture. The doctor has opined that the petitioner is suffering 18.66% disability towards whole body and 56% towards lower limb. Therefore, considering the pain the petitioner has suffered the fracture of pelvic bone, I propose to consider 19% towards whole body instead of 18.66% taken by the Tribunal. Therefore, $\text{Rs.}12,000 - 23 - \times 12 \times 18 \times 19\%$ comes to Rs.4,92,480/- towards loss of future income.

28. The appellant-claimant in MVC No.4253/2018, Amena claimant is not awarded any amount towards loss of amenities. Therefore, I propose to award Rs.25,000/- towards loss of amenities.

29. In all, the petitioner-claimant is entitled to Rs.9,15,610/- as against the compensation of Rs.6,64,930/- awarded by the Tribunal and the same is as below,

Particulars	Amount in Rs.
Towards loss of future income	4,92,480
Loss of amenities	25,000
Marriage prospects	75,000
Loss of income during laid up period	48,000
Future medical expenses	25,000
Medical expenses	61,130
Transportation charges	15,000
Food and nourishment	49,000
Pain and suffering	1,00,000
Total	8,90,610

30. Accordingly, I proceed to pass the following:

ORDER

(i) The appeals filed by the insurance company in M.F.A. No.3437/2022 and 3436/2022 are hereby dismissed.

(ii) The appeal filed by the claimant in M.F.A. No.5694/2022 is hereby allowed.

- (ii) The appeal filed by the claimant in M.F.A. No.5695/2022 is hereby dismissed.
- (iii) The appellant in M.F.A. No.5694/2022 is entitled to the compensation of Rs.8,90,610/- as against the compensation of Rs.6,64,930/- awarded by the Tribunal together with interest at 6% p.a. from the date of claim petition till realisation.
- (iv) Out of the enhanced compensation, Rs.4,00,000/- is directed to be deposited in the name of the appellant, in any Nationalized Bank, for a period of five years with permission to withdraw periodical interest. - 25 -
- (v) The respondent insurance company is directed to deposit the enhanced compensation with interest at 6% per annum, within 60 days from the date of receipt of a copy of the award.
- (vi) The amount in deposit made by the insurance company be transmitted to the Tribunal and
- (vii) Draw the award accordingly. Sd/- JUDGE AKV/CS List No.: 1 Sl No.: 51
CT:SK