

(2013) 11 KAR CK 0021
In the Karnataka High Court
Case No : M.F.A. No. 4441 of 2011 (MV)

Abdul Khadar Shafeeq

APPELLANT

Vs

K. Pushparaj

RESPONDENT

Date of Decision : 19-11-2013

Acts Referred:

Citation : (2014) 3 AKR 27

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Final Decision : Partly Allowed

Judgement

S. Abdul Nazeer, J.—This appeal by the claimant is directed against the judgment and award dated 30.3.2011 in MVC No. 1399/2007, whereby the Tribunal has awarded total compensation of Rs. 2,86,000/- with interest at 6% p.a. from the date of the petition till the date of deposit. Learned counsel for the claimant/appellant would contend that the claimant had sustained grievous injuries in the accident both to his head and to the limb. The Doctor has assessed permanent disability at 18% to the whole body. The claimant was working as a cleaner. The Tribunal has taken his income at Rs. 3,000/- per month for the purpose of computation of loss of future earning. It is argued that the appropriate compensation has not been awarded towards loss of income during treatment period, towards loss of future earning capacity, towards loss of amenities and towards conveyance and nourishment, etc. Learned counsel further submits that the Tribunal ought to have awarded appropriate amount towards future medical expenses.

2. On the other hand, learned Advocate appearing for the respondent-insurance company has sought to justify the impugned judgment and award.

3. I have carefully considered the arguments made at the Bar and the materials placed on record.

4. There is no dispute as to the occurrence of the accident and liability of the

insurance company to pay the compensation. Having regard to the contentions urged, the only question for consideration is whether the award of compensation by the Tribunal is adequate?

5. It has come in the evidence of the Doctor that the claimant had sustained grievous injuries in the accident. The Doctor has assessed permanent disability to the whole body at 18%, which is just and reasonable. It is clear that the claimant was working as Cleaner. The accident had occurred on 16.6.2007. Though the claimant contends that he was earning Rs. 6,000/- p.m., no documents have been produced in support of the said contention. It is just and proper to fix his income as Rs. 4,500/- p.m. By taking his income at Rs. 4,500/- p.m. with application of multiplier 18 and disability at 18%, the compensation payable towards loss of future earning capacity is assessed at Rs. 1,74,960/-. The compensation awarded towards pain and suffering and towards personal expenses in a sum of Rs. 75,000/- and Rs. 45,000/- is reasonable. The claimant is entitled to Rs. 18,000/- (four months salary) towards loss of income during treatment period. A sum of Rs. 25,000/- is awarded towards loss of amenities and Rs. 10,000/- towards conveyance, nourishment, etc. He is also entitled for award of Rs. 15,000/- towards future medical expenses as opined by the Doctor. Thus the compensation payable to the claimant is reassessed as under:

6. The Tribunal has awarded Rs. 2,86,000/- which has to be deducted from the aforesaid amount. Thus, the claimant is entitled for a balance compensation of Rs. 76,960/-. In the result, the appeal succeeds and allowed in part. The respondent-insurance company is directed to deposit a sum of Rs. 76,960/- with interest at 6% p.a. from the date of the application till the date of deposit within a period of eight weeks from the date of receipt of copy of this order. The claimant is permitted to withdraw the said amount on its deposit. No costs.