

(2011) 02 KAR CK 0132
In the Karnataka High Court
Case No : M.F.A. No. 2204 of 2009

Anil Shetty

APPELLANT

Vs

Jagannath Achari, The Branch Manager New India Insurance
Co. Ltd. and Mr. Dinesh Shetty

RESPONDENT

Date of Decision : 14-02-2011

Acts Referred:

Citation : (2011) 02 KAR CK 0132

Hon'ble Judges : N. Ananda, J

Bench : Single Bench

Advocate : H. Pavana Chandra Shetty, for the Appellant; Vishwanath S. Shettar,
for R 1 and R 2, for the Respondent

Judgement

N. Ananda, J.—The matter is listed for admission. Lower Court Records are received. With the consent of learned Counsel for parties, the matter is taken up for final disposal.

2. I have heard Sri. Pavanachandra Shetty, learned Counsel for claimant and Sri. Vishwanath S. Shettar, learned Counsel for insurance company.

3. As a result of accident, claimant had suffered following injuries:

- a) Abrasion of 3 cm from the lateral end of the right eyebrow at 11'o clock position
- b) Abrasion of 4 cm from the lateral end of the left eyebrow at 7'o clock position.
- c) 4 x 3 cm bone deep laceration over the proximal right leg.
- d) Fractures of right clavicle
- e) Fracture of right tibia and fibula.

4. The claimant was treated in Kasturba Hospital at Manipal. He was operated for reduction of fractures. As per evidence of P.W. 2 - Dr. Monappa Naik, even after

complete treatment, claimant has following disabilities:

- a) restricted movement of right knee joint
- b) restricted movement of right ankle joint
- c) unable to sit and squat
- d) difficulty in climbing
- e) unable to bear heavy weight

P.W. 2 - Dr. Monappa Naik, has assessed permanent physical disability vis-a-vis loss of earning capacity of claimant at 20%, the Tribunal has taken the same at 10%. The Tribunal has awarded Compensation of Rs. 1,66,700/- under following heads:

I Pain and suffering - Rs.31,000 II Actual cost of medical expenditure incurred - Rs. 58,111 III Provision for special diet and cost of Attendant at Rs. 200/- per day for for 37 days admission in the hospital - Rs. 7,400 IV Value of 10% disability - Rs. 57,600 V Provision for future medical Expenditure - Rs. 7,500 VI Loss of amenities and future Unhappiness - Rs. 5,000 Total - Rs.1,66,611 Rounded off to - Rs.1,66,700

5. On hearing the learned Counsel for parties and on reconsideration of the matter, I am of the opinion that compensation awarded by the Tribunal under the head "pain and suffering" is inadequate; so also, towards "loss of amenities" and "future medical expenditure". Therefore, compensation awarded by the Tribunal is modified as follows:

I Pain and suffering - Rs. 35,000 II Medical expenses - Rs. 60,000 III Attendant charges, conveyance And Nourishment - Rs. 7,400 IV Loss of earning capacity and Future loss of earnings - Rs. 57,600 V Future medical expenditure - Rs. 20,000 VI Loss of amenities and enjoyment of life - Rs. 25,000 Total - Rs.2,05,000 Thus, claimant, is entitled to total compensation of Rs. 2,05,000/-

5. In the result, I pass the following:

ORDER

(i) Appeal is accepted in part.

(ii) The impugned award is modified by enhancing compensation of Rs. 1.66,700/- awarded by tribunal to Rs. 2,05,000/-.

(iii) The rest of the award as it relates to rate of interest, period of accrual of interest and liability of Respondents is confirmed.

(iv) The payment and investment shall be in the ratio evolved by the tribunal.

Parties to bear their costs.