

(2012) 12 KAR CK 0087

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 30018 of 2009 (MV)

Bahurao Tungal

APPELLANT

Vs

Laxman Chawan

RESPONDENT

Date of Decision : 03-12-2012

Acts Referred:

Citation : (2012) 12 KAR CK 0087

Hon'ble Judges : Ravi Malimath, J

Bench : Single Bench

Advocate : Shailaga C.D. and Smt. Ratna N. Shivayogimath for Shivayogimath Asso, for the Appellant; D.P. Ambekar, Adv for R1 Sri. Manjunath Chigali, for Veeresh B. Patil, Adv for R2, for the Respondent

Judgement

Ravi Malimath

1. Aggrieved by the Judgment and award passed by the Tribunal, claimant has filed the present appeal seeking enhancement. The accident and liability are admitted. The claimant is said to be an agricultural coolie as well as JCB machine agent. He claims to be earning Rs. 6,000/- per month. However, the Tribunal has held his notional income at Rs. 2,500/- per month. It is on the lower side. Following the judgment of the Hon'ble Supreme Court reported in Sri Ramachandrappa Vs. The Manager, Royal Sundaram Alliance Insurance Company Limited, ., it would be appropriate to hold the income of the claimant at Rs. 5,000/- per month since he was neither a coolie or daily wage worker. He also had income through other than agriculturist coolie. I have examined the evidence of doctor PW 2. He states that there is 40% to 45% disability to the right lower limb. That there is a restriction of movement of the hip. However, on considering the evidence it would appear that the disability is on the higher side. It is appropriate to hold his disability at 10%. He was aged 40 years as on the date of accident. Hence the proper multiplier would be 15. Hence the loss of income due to disability is as follows:

Rs. 5,000 x 12 x 15 x 10% = Rs. 90,000/-

2. The amount towards pain and suffering is on the lower side. Hence a further sum of Rs. 15,000/- is awarded. He was in hospital for 14 days. Medical bills are to the extent of Rs. 71,000/- Hence, towards medical expenses, nourishment etc, a further sum of Rs. 20,000/- is awarded. He requires at least six months to recover from the injuries. Hence Rs. 30,000/- (Rs. 5,000x6) is awarded towards loss of income during treatment period. The amount towards future medical expenses is proper and is undisturbed. The amount towards amenities is enhanced by a further sum of Rs. 10,000/-. Hence in all the claimant is awarded compensation as follows;

In all the compensation is enhanced by a sum of Rs. 80,000/- (Rs. 2,80,000/- less Rs. 2,00,000/-) which shall carry interest at the rate of 6% p.a. from the date of the Petition till the date of payment and to be paid within a period of four weeks from the date of receipt of copy of this order.