

(2014) 12 KAR CK 0120
In the Karnataka High Court
Case No : MFA No. 30306/2009 (MV)

Bhanu Begum

APPELLANT

Vs

Mahadevappa

RESPONDENT

Date of Decision : 10-12-2014

Acts Referred:

Citation : (2014) 12 KAR CK 0120

Hon'ble Judges : A.V. Chandrashekara, J

Bench : Single Bench

Advocate : Bheemashankar G. Melinamane and Nandkishore Boob, Advocate for the Appellant; M. Sudarshan, Advocate for the Respondent

Judgement

A.V. Chandrashekara, J.—Appellant was the claimant in a case in MVC. 281/08 on the file of Principal Civil Judge (Senior Divn.) and MACT, Gulbarga.

2. She had sustained serious injuries in a road accident that took place on 27.7.2007 at 8.20 p.m. near a Madnalli canal on Shahpur-Madnalli road. When she was travelling in a turn-turn vehicle bearing No. KA-33-4734, the driver of the said vehicle drove in a rash and negligent manner as a result of which she sustained serious injuries. A sum of Rs. 1,45,500/- has been awarded as compensation under different heads as follows:

3. The case of the appellant is that the amount awarded is grossly inadequate and that the compensation so awarded is not just and reasonable.

4. Heard the learned counsel for the parties and perused the records.

5. The appellant is examined as P.W. 2 in the trial court since 2 more cases had been clubbed along with MVC. 281/08. She had sustained two injuries out of which one was grievous, being fracture of distal part of humerus and fracture of both bones. The other was a simple injury. She had been admitted in Government hospital from 28.7.2007 to 16.8.2007 as in-patient. Rs. 20,000/- is awarded under the head "pain and suffering." Taking into consideration the

nature and gravity of the injuries suffered by her and the number of days spent as in-patient, Rs. 30,000/- would be reasonable under the said head..

6. A sum of Rs. 32,500/- is awarded towards medical expenses and the same is based on prescriptions and medical bills. This does not require any interference. Her income is assessed at Rs. 60/- per day and Rs. 3,600/- is awarded under the head loss of income during the laid-up period. Admittedly appellant was aged 30 years and was rendering good service to her family. Even a manual labourer would have earned not less than Rs. 4,000/- p.m. in 2008. Taking into consideration the injuries sustained by her to both bones of her hand, it has to be inferred that she could not go to work for at least 3 months. Hence Rs. 12,000/- is awarded under the head loss of income during the laid-up period.

7. A sum of Rs. 3,000/- is awarded under the head nourishment, food, conveyance and attendant's charges. Instead of Rs. 3,000/-, Rs. 5,000/- would be reasonable.

8. No amount is awarded towards loss of amenities and pleasure in future life. Rs. 20,000/- would be reasonable amount under this head and the same is awarded. Rs. 86,400/- is awarded under the head loss of future income" assessing physical disability at 30% of the body as a whole. Amount awarded under the head loss of future earning" does not require any interference and it is just and reasonable.

9. Thus the appellant is entitled to enhanced compensation as follows:

Out of this, a sum of Rs. 1,45,500/- already awarded will have to be deducted. The enhanced compensation of Rs. 40,400/- will have to be paid with interest at 9% p.a. from the date of petition till realization.

10. In the result, I pass the following order:

ORDER

"The appeal is allowed in part. Compensation awarded by the Tribunal at Rs. 1,45,500/- is enhanced to Rs. 1,85,900/-. The enhanced compensation of Rs. 40,400/- shall be paid with interest at 9% p.a. from the date of petition till realization. The award of the

Tribunal stands modified accordingly. Appeal is allowed with costs."