

(2015) 01 KAR CK 0246
In the Karnataka High Court
Case No : M.F.A. No. 4346 of 2010 (MV)

Bharath

APPELLANT

Vs

IFFCO-TOKIA General Insurance Co. Ltd.

RESPONDENT

Date of Decision : 02-01-2015

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2015) 01 KAR CK 0246

Hon'ble Judges : G. Narendra, J.; N.K. Patil, J.

Bench : Division Bench

Advocate : M.S. Purushothama Rao, for the Appellant; O. Mahesh and S.K. Venkatachalapathi, Advocates for the Respondent

Judgement

N.K. Patil, J.—This appeal by the appellant is directed against the judgment and award dated 19th December 2009, passed in MVC No. 3426/2007, by the IX Additional Judge, Member, Motor Accident Claims Tribunal-7, Court of Small Causes, Bangalore (SCCH-7), (for short, Tribunal") for enhancement of compensation on the ground that, the compensation of Rs. 5,74,000/- awarded in his favour as against his claim for Rs. 20,00,000, is inadequate.

2. The appellant was the minor boy aged about 16 years at the time of accident. Represented by his father and natural guardian, he filed the claim petition under Section 166 of the Motor Vehicles Act, contending that at about 8:30 A.M., on 24-06-2006, when he was travelling in the motor cycle bearing Registration No. KA-05/EX-186, as pillion rider, on Anekal-Chandapura road to attend his SSLC examination, near Igalur village, he met with an accident on account of rash and negligent driving by the driver of goods auto rickshaw bearing Registration No. KA-05/C-4046. Due to the impact, the appellant sustained grievous injuries and was shifted to Hospital for treatment.

3. On account of the injuries sustained by the appellant, represented by his father and natural guardian, he filed the claim petition before the Tribunal, seeking compensation of a sum of Rs. 20.00 lakhs against the respondents. The

said claim petition had come up for consideration before the Tribunal on 19th December, 2009. The Tribunal, after considering the relevant material available on file and after appreciation of the oral and documentary evidence, allowed the claim petition in part, awarding a sum of Rs. 5,74,000/- under different heads, with 6% interest per annum, from the date of petition till the date of deposit. Not being satisfied with the quantum of compensation awarded by Tribunal, the appellant has filed this appeal, seeking enhancement of compensation.

4. Learned counsel appearing for the appellant submits that during the pendency of this appeal, the appellant has taken treatment, spending huge sums of money towards medical expenses and other incidental expenses as per the prescription of the Doctor and the bills. Therefore, he has filed I.A. No. 1/2014, for adducing additional evidence and I.A. No. 2/2014 for additional facts. Since the said two applications are allowed by a separate order by this Court, this matter may be remanded back to the Tribunal, for appreciation of the additional oral and documentary evidence in support of their case.

5. In response to the said submission of the learned counsel appearing for the appellant, learned counsel appearing for Insurer submits that the submission of the learned counsel for appellant may be placed on record and the matter may be remitted back to the Tribunal for reconsideration afresh and to decide the same in accordance with law.

6. In the light of the submission of the learned counsel appearing for both parties, after evaluation of the original records available on file including the impugned judgment and award passed by Tribunal and after microscopic evaluation of the documents produced along with I.A. Nos. 1 and 2 of 2014, we are of the considered view that the matter requires reconsideration by Tribunal after appreciation of additional oral and documentary evidence to be adduced by the parties.

7. Therefore, without expressing any opinion on the merits or demerits of appellant's case, it would suffice for this Court if appropriate direction is issued to the Tribunal to reconsider the matter and dispose of the same, to meet the ends of justice.

8. In the light of the discussion made above, the appeal filed by the appellant is allowed in part.

The impugned judgment and award dated 19th December 2009, passed in MVC No. 3426/2007, by the IX Additional Judge, Member, Motor Accident Claims Tribunal-7, Court of Small Causes, Bangalore (SCCH-7), is hereby set aside;

The matter-stands remanded back to Tribunal for) reconsideration and re-determination of compensation afresh and to pass appropriate order, in accordance with law, after affording reasonable opportunity of hearing to the parties, personally or through their counsel and dispose of the same, as expeditiously as possible, keeping in view the fact that the accident is of the year

2006 and the appellant was a minor as on the date of accident;

Parties are permitted to file necessary application/s, for adducing additional evidence, oral/documentary, to substantiate their respective cases within four weeks from the date of receipt of a copy of this judgment;

In case such application/s is/are filed by the learned counsel for the parties, within the time stipulated above, the Tribunal is directed to receive the same and proceed further and dispose of the same as expeditiously as possible, at any rate, not later than six months from the date of appearance of the parties;

Registry is directed to return the entire original records to the jurisdictional Tribunal, forthwith;

In case the learned counsel appearing for appellant files a memo for return of documents produced along with the applications, Registry is directed to return the same, forthwith, to enable him to file necessary application before the Tribunal;

Both the appellant and Respondents are directed to appear before the jurisdictional Tribunal on 19-01-2015, to enable them to take further dates of hearing, as requested.

All the contentions urged by both the parties in the appeal are left open;