

(2011) 09 KAR CK 0113
In the Karnataka High Court
Case No : M.F.A No. 4636 of 2007

B.R. Krishna

APPELLANT

Vs

Rame Gowda and The Manager, Oriental Insurance Co. Ltd.
221, Cubbon Pet Road, N.R. Square Bangalore-2

RESPONDENT

Date of Decision : 19-09-2011

Acts Referred:

Citation : (2011) 09 KAR CK 0113

Hon'ble Judges : K.L. Manjunath, J;B. Manohar, J

Bench : Division Bench

Advocate : M.C. Umadevasmma, for the Appellant; R. Rajagopalan, for R2, for the Respondent

Final Decision : Allowed

Judgement

K.L. Manjunath, J.—The Appellant sustained the following injuries in a road traffic accident occurred on 29.9.2003 at 7.00 p.m. on B.M. Road, near Sankaklagere Gate,

1. Communicated fracture shaft of left femur
2. Fracture of Femur condyle left
3. Fracture of Patella
4. Fracture of lateral condyle of left tibia
5. Fracture of Fibula left
6. Fracture of medial alveolus left, ankle.

2. The claimant was admitted, to the hospital, and discharged from the hospital on 1.11.2003. He was doing the business and aged 22 years. The doctor, who treated the claimant, assessed the disability at 70% to the whole body. The Tribunal awarded the total compensation of Rs. 2,35,000/- under the following heads:

1. Towards pain and suffering Rs. 40,000.00
 2. Towards loss amenities in life Rs. 20,000.00
 3. Medical expenses Rs. 75,000.00
 4. Attendants, conveyance, nourishment charges Rs. 10,000.00
 5. Loss of income during the Treatment Rs. 04,500.00
 6. Disability Rs. 71,400.00
 7. Future medical expenses Rs. 15,000.00
- Total Rs. 2,35,000.00

Being not satisfied with the compensation awarded by the Tribunal, the present appeal is filed for enhancement

3. We have heard the learned Counsel for the parties.

4. On hearing, we have noticed that considering the number of fractures sustained by the claimant, we are of the opinion that the Appellant is entitled for further sum of Rs. 10,000/- under the head pain and suffering, Rs. 5,000/- towards loss of income during the laid of period. Further a sum of Rs. 15,000/- towards loss of amenities in life. Considering the nature of disability sustained by the claimant, he has to suffer for the rest of his life.

5. The Tribunal considering the evidence of the doctor has assessed the disability at 17% to the whole body. The Tribunal without considering the income of the claimant has taken the income and Rs. 1,500/- p.m. which according to us, is on the lower side end we consider the income of the claimant at Rs. 3,000/- p.m. Therefore, we are inclined to award a sum of Rs 70,000/- under the bead future loss of income in addition to what has been awarded by the Tribunal. Thus in all, the Appellant is entitled for enhancement of compensation of Rs. 1,00,000/- with interest at 6% p.a. from the date of petition till the date of payment. Out of the enhanced compensation, Rs. 75,000/- with interest accrued thereon is ordered, to be deposited in the name of the Appellant for a period of five years in any Nationalised/Scheduled Bank and he is entitled to withdraw the periodical interest. The rest of the amount be released to the Appellant.

In the result, the appeal is allowed in part.