

(2012) 08 KAR CK 0004
In the Karnataka High Court
Case No : M.F.A. No. 30679 of 2010 (MV)

Chandrashekar

APPELLANT

Vs

Shri Revanasiddappa Danadamani and Another

RESPONDENT

Date of Decision : 23-08-2012

Acts Referred:

Citation : (2013) 1 AKR 293

Hon'ble Judges : Dilip B. Bhosale, J

Bench : Single Bench

Advocate : S.S. Mamadapur, for Sri Ashok R. Kalyan Shetty, for the Appellant;

Final Decision : Dismissed

Judgement

Dilip B. Bhosale, J.—This appeal is directed against the Judgment and Award dated 13.01.2010 rendered by the Member, MACT-VI, Bijapur in MVC No. 217/2008 whereby, the claim petition filed by the appellant-claimant has been partly allowed and the Tribunal has awarded a lumpsum compensation of Rs. 70,000/- with interest @ 6% per annum from the date of petition till deposit of the amount. The appellant-claimant met with an accident on 02.08.2006 when he was travelling in Tata Indica Car No. KA.25/BB.1703 from Hubli to Gulbarga. The accident occurred on Bijapur-Gulbarga State Highway, while he was passing through Sindgi Town, It is alleged that a driver of the car was driving it in a rash and negligent manner. The appellant claims that in the accident, he sustained grievous injuries to his left knee, chest and abdomen. He further claims that he sustained injuries to his upper extremities and all over the body. Further, the case of the appellant is that he suffered 35% - 40% disability to the whole body. In support of this contention, he examined Dr. S.S. Bedar (PW.2). Thus, the appellant instituted claim petition, seeking compensation of Rs. 7,30,000/- against the respondents.

2. The Tribunal awarded a lumpsum compensation of Rs. 70,000/- with interest at the rate of 6% per annum keeping in view the nature of injuries sustained by

the appellant.

3. I have perused the judgment and other relevant material placed on record. The Wound Certificate (Ex.P4) issued by District (Government) Hospital, Bijapur shows that the injuries sustained by the appellant were simple in nature. He was in the hospital for about ten days. In the hospital, all the tests including Sonography was done by the Doctors. According to Learned Counsel for the claimant, the claimant also under went some minor surgery. Admittedly, he did not suffer any fracture. It is against this backdrop, the claimant instead of approaching the Doctors, who treated/operated him in the Government Hospital at Bijapur, approached Dr. S.S. Bedar, the private practitioner, for the reasons best known to him for seeking disability certificate after more than three years. The accident occurred on 02.08.2006, whereas, Dr. S.S. Bedar (PW.2) issued disability certificate on 14.12.2009. Dr. S.S. Bedar did not treat him or had seen him after the accident or while he was in the hospital. He gave certificate stating that the claimant suffered 35% to 40% permanent disability to the whole body. He did not give any reasons as to on what basis, he issued the certificate.

4. During last 5-6 weeks, I came across several Miscellaneous First Appeals arising from the orders passed by Motor Accident Claims Tribunals, wherein, physical disability/functional disability certificates, as produced in the present case, were relied upon by the claimant. I have also observed that the Doctors, issuing these certificates are also same. In almost all such cases, it is seen that disability certificates are issued by those Doctors after more than 1-3 years of the accident without treating the victims/claimants either immediately after the accident or even thereafter. Learned Counsel appearing for the Insurance Companies in different matters invited my attention to the list of hundreds of claim petitions, wherein, one Dr. Maggi from Bijapur issued such certificates. I was told that in more than 500 cases, Dr. Maggi issued such certificates during last 1-2 years. In several cases, I have observed that the Tribunals have discarded/disbelieved those certificates for the similar reasons recorded in the judgments.

5. The claimants on the basis of the certificates issued by Doctors, who never treated them, seek exorbitant compensation. In my opinion, the Tribunals in such cases should be more careful while assessing the medical evidence. The Tribunals may not accept such evidence at its face value, and if find it doubtful, either insist for disability certificate from the Hospital/Doctor, who treated the victim after accident or, in a given case, may refer the victim to Medical Board/Senior District Surgeon/Orthopedic Surgeon attached to Government Hospitals. Similarly, if any such application is made by the Insurance Company, seeking reference to the Medical Board or Senior Government Orthopedic Surgeon/District Surgeon, the Tribunal should consider such applications favourably having regard to the quantum of compensation sought and pass appropriate orders. The Tribunal may also make efforts to find out from the claimant/victim during his examination in the Court as to why he did not procure disability

certificate from the Doctor/Hospital, which treated him. In a given case, the Tribunal may issue appropriate directions seeking disability certificate from such Hospital/Doctor, more particularly when it is a Government Hospital. These observations, however, shall not be construed to mean that if evidence of any Doctor, who never treated the victim, or the certificate issued by him is found to be genuine and trustworthy, the Tribunal cannot/should not act upon it and decide the claim.

6. In the present case, the certificate issued by Dr. S.S. Bedar has been discarded/disbelieved by the Tribunal and, in my opinion, rightly so. The claimant in the present case had sustained simple injuries without there being any fracture or major damage to any internal organ. Despite this, we fail to understand, as to how could Dr. S.S. Bedar issue disability certificate with simple injuries, that were sustained by the claimant, after three years, stating that he suffered 35% to 40% permanent disability to the whole body.

7. The claimant in this case is from Bijapur. He was treated in the Government Hospital at Bijapur. It is not the case of the appellant-claimant that the Doctors, who treated him in the said Hospital were not available for issuing disability certificate or for examining them in the case. The claimant has also not stated as to why he could not and did not procure disability certificate from the said Hospital. This conduct of the claimant undoubtedly creates doubt about genuineness of the certificate and/or intentions of the claimant. I have perused the entire record, more particularly, the medical papers, which did not show that the claimant suffered permanent physical disability/functional disability as claimed by him. He sustained simple injuries. Even if it is assumed that there was some injury caused to the abdomen, it cannot be said that it was not curable or it was not cured. If it had not cured, the claimant definitely would have approached the Doctor in the hospital, who treated him, to seek their opinion on the point of disability and/or to examine them in the case. The appellant, however, for the reasons best known to him, chose to procure certificate from the private Doctor, who never treated him.

In the circumstances, I find absolutely no merit in the case. Hence, the Appeal is dismissed.