

(2015) 06 KAR CK 0142

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 5985 of 2014 (MV)

Chethana P.

APPELLANT

Vs

The Chairman and Managing Director, KSRTC

RESPONDENT

Date of Decision : 10-06-2015

Acts Referred:

Citation : (2015) 06 KAR CK 0142

Hon'ble Judges : A.S. Pachhapure, J

Bench : Single Bench

Advocate : H.K. Basavaraj, for the Appellant; K. Nagaraja, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

A.S. Pachhapure, J.

1. Seeking enhancement of compensation for the injury sustained in the motor vehicle accident, the present appeal is filed.

2. The occurrence of accident, rash and negligent driving, involvement of the vehicle and liability are not in dispute. The appeal is confined only to the quantum of compensation. The appellant has suffered the crush injury to left foot with 2nd, 3rd and 5th metatarsal fracture, complete degloving injury over dorsal of left foot with food drop. The disability is assessed at 4% and the income is taken at Rs. 5,000/- per month. The sum of Rs. 2,47,691/- is granted as compensation on all the heads.

3. Heard the learned Counsel for both the parties.

4. Learned Counsel for the appellant submits that the assessment of income and grant of compensation for pain, suffering and mental agony, attendant charges is on the lower side. He submits that the Tribunal has not granted any compensation for loss of income during the period of treatment and loss of amenities, hence, seeks for enhancement.

5. Learned Counsel for the insurer supports the judgment and award and submits that just compensation has been granted.

6. The appellant states that his income was Rs. 5,200/-. The accident is of the year 2012. I think it is just and proper to consider his income at Rs. 5,200/- per month. The disability has been assessed by the Tribunal at 4%. The doctor has certified the disability to the whole body at 12%. Looking to the nature of injury and difficulty that the appellant faces in day to day activities, it appears proper to consider the disability at 7%. With this disability and income at Rs. 5,200/-, the compensation payable towards loss of future earnings would be Rs. 35,424/-.

7. No compensation is paid towards loss of income during the period of treatment. The appellant requires three months time to resume to the normal duties. He is entitled to Rs. 15,600/- towards loss of income during the laid up period. No compensation is granted towards loss of amenities. As disability assessed is 7%, it is proper to grant the sum of Rs. 7,000/- towards loss of amenities.

8. Counsel submits that the compensation towards pain and sufferings is on the lower side. The sum of Rs. 25,000/- has been granted and it appears to be reasonable. Towards conveyance, special diet etc., Rs. 20,000/- has been granted. It is proper to enhance the same to Rs. 2,000/- on this head. Thereby, the additional compensation payable would be as under:

9. Consequently, the appeal is allowed in part. The appellant is entitled to Rs. 60,024/- which is rounded off to Rs. 60,000/- with interest at 9% p.a. from the date of petition till its payment in addition to the compensation awarded by the Tribunal.