

(2011) 02 KAR CK 0121
In the Karnataka High Court
Case No : M.F.A. No. 3645 of 2009

H. Laxminarayana Ganiga

APPELLANT

Vs

Krishnayya Balegara and Unitted India Insurance Co. Ltd.

RESPONDENT

Date of Decision : 04-02-2011

Acts Referred:

Citation : (2011) 02 KAR CK 0121

Hon'ble Judges : N. Ananda, J

Bench : Single Bench

Advocate : H. Pavana Chandra Shetty, for the Appellant; B.S. Vivek, for B.C. Setharama Rao, for R2, for the Respondent

Judgement

N. Ananda, J.—This is a claimant's appeal for enhancement of compensation.

2. I have heard Sri. H. Pavanachandra. Shetty, learned Counsel for claimant and Sri. B.S. Vivek, learned Counsel for insurance company.

3. As a result of accident, the claimant had suffered following:

- a) Avulsion of skin with loss of skin measuring 6 x 4 cm size over left occipital parietal area of scalp
- b) Loss of posterior portion of left ear (pinna)
- c) CT Scan shows mild diffuse cerebral oedema.

The claimant was treated in Chinmayi Hospital at Kundapura. The Tribunal has awarded compensation of Rs. 1,19,300/- under following heads:

I Pain and suffering

Rs. 25,000=00

II Medical expenses

Rs. 9,242=27

III Special diet, nursing and Attendant charges

Rs. 8,000=00

IV Loss of income during Treatment period

Rs. 9,000=00

V Loss of future income due to disability

Rs. 72,000=00

VI Conveyance charges

Rs. 1,000=00

Total

Rs. 1,19,242=27

Rounded off to

Rs. 1,19,300=00

4. On hearing the learned Counsel for parties and on reconsideration of the matter, I find that the Tribunal should have awarded compensation under the head "loss of amenities" as the claimant has lost part of his left ear lobe. Therefore, I award compensation of Rs. 20,000/- under the head "loss of amenities". Apart from this, I do not find any discrepancy in the compensation awarded under other heads.

5. Therefore, claimant is entitled to total compensation of Rs. 1,39,300/- with interest at the rate of 6% per anuni from the date of petition till the date of realisation.

6. In the result, I pass the following:

ORDER

(i) Appeal is accepted in part.

(ii) The impugned award is modified by enhancing compensation of Rs. 1,19,300/- awarded by tribunal to Rs. 1,39,300/- with interest at. the rate of 6% per annum from the date of petition till the date of realisation.

(iii) The rest of the award as it relates to accrual of interest and liability of Respondents is confirmed.

(iv) The payment and investment shall be in the ratio evolved by the tribunal.

Parties to bear their costs.