

(2014) 03 KAR CK 0050

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 7908 of 2011 (MV)

H.G. Nagendra

APPELLANT

Vs

Rangappa

RESPONDENT

Date of Decision : 12-03-2014

Acts Referred:

Citation : (2014) 4 AKR 763 : (2014) 5 KarLJ 415

Hon'ble Judges : H.G. Ramesh, J

Bench : Single Bench

Advocate : Mushtaq Ahmed and Abdul Khadar, Advocate for the Appellant; A. Ravishankar, Advocate for the Respondent

Judgement

H.G. Ramesh, J.—There is a delay of 65 days in filing the appeal. The delay is condoned. The claimant is not entitled for interest for the delay period on the enhanced compensation. This appeal is by the claimant seeking enhancement of compensation as against the award passed by the Principal Senior Civil Judge and CJM, Tumkur in MVC No. 1335 of 2007, dated 28-2-2011.

2. Claimant sustained injuries in the accident that occurred on 29-8-2007 in the night around 9.15 p.m. when he was proceeding from Kyathasandra on his Bajaj Pulsor Motorbike bearing No. KA-04:TC29. Near Muslim Hostel on B.H. Road, the driver of the Maruthi Esteem Car bearing No. KA 05:M 6868 came in a negligent manner and dashed against him due to which he sustained grievous injuries. He was shifted to General Hospital, Tumkur. He is said to have spent Rs. 2,00,000/- towards medical expenses and in the claim petition filed and matter being contested, the Tribunal having raised relevant issues, after enquiry having held that the accident was due to the negligence on the part of the driver of the Maruthi Esteem Car, awarded a compensation of Rs. 48,000/- on the following heads:

3. Being not satisfied with the quantum of compensation awarded by the Tribunal, the claimant is in this appeal.

4. Heard.

5. As per the wound certificate, the claimant sustained the following injuries:

"(i) Sutured wound over right knee and swelling and pain present. X-ray showed mild inter condylar tibia spiking present.

(ii) Pain, swelling, crepitation abnormal mobility and shortening present over right thigh quadriceps tendon. X-ray showed comminuted fracture upper 1/3rd of right femur with displacement.

(iii) Pain and swelling over right ankle. X-ray showed fracture lateral malleolus."

6. The doctor has opined that the injuries are grievous in nature and the claimant has sustained 10% disability to the whole body. Claimant was earning Rs. 6,000/- per month by milk vending business and is also said to be a Diploma student. Having regard to the nature of injuries sustained, claimant would be entitled for another sum of Rs. 10,000/- towards pain and suffering; Rs. 15,000/- towards medical expenses; Rs. 15,000/- towards future medical expenses and Rs. 35,000/- towards loss of enjoyment in life. Claimant was aged about 20 years as on the date of accident. The accident is of the year 2007. He is entitled for Rs. 78,000/- towards loss of future earnings due to the disability. Thus, in all, the claimant would be entitled for Rs. 1,53,000/- over and above what has been awarded by the Tribunal with 6% interest per annum from the date of petition till deposit. The insurer to deposit the amount within three months.

Accordingly, the appeal is allowed in part.