

(2012) 01 KAR CK 0253
In the Karnataka High Court
Case No : MFA No. 8806 of 2006 (MV)

H.M. Ranganath

APPELLANT

Vs

The General Manager Managing Director, K.S.R.T.C., Kengal
Hanumanthaiah Double Road, Shanthinagar, Bangalore-
560027

RESPONDENT

Date of Decision : 02-01-2012

Acts Referred:

Citation : (2012) 01 KAR CK 0253

Hon'ble Judges : K. Govindarajulu, J;K. Bhakthavatsala, J

Bench : Division Bench

Advocate : Nikhil S.K and C.H. Jadhav, for the Appellant; K.S. Bharath Kumar, for the Respondent

Final Decision : Allowed

Judgement

Dr. Bhakthavatsala, J.—The appellant/claimant in MVC No. 925/2000 on the file of Civil Judgs (Sr. Dn.) & JMFC and Addl. Motor Accident Claims Tribunal, Tiptur, is before the Court for enhancement of compensation. Learned counsel for the appellant submits that the claimant sustained fracture of right humerus and availed treatment at Government Hospital, Tumkur, He underwent surgery in Jayanagar Orthopedic Hospital, Bangalore. It is pleaded that he was working as a Secretary of Grama Panchayathi and did attend to work till 31.5.2000. The Tribunal has awarded a sum of Rs. 27,000/- in all

2. Perused the LCR.

3. On 19.11.1999 at about 2.25 p.m. when the. claimant was travelling in KSRTC bus bearing registration No. KA-01-F-6414. he sustained fracture of right humerus. He filed a claim petition seeking compensation of Rs. 5,00,000/- towards personal injuries sustained in the motor accident as a result of rash and negligent driving by the driver of the Bus. The claimant sustained grievous injuries. He got himself examined as PW-1 besides examining the Doctor as

PW-2 and got marked Exs.P1 to P73.

4. The respondent has not produced any rebuttal evidence. The Tribunal, on appreciation of the evidence on record, and after holding the driver of the KSRTC bus responsible for the accident, awarded the compensation as under:

Rs.

Rs.

1. Pain & Sufferings

15,000/-

2. Medical and special treatment and conveyance charges

7,000/-

3. Loss of income during the period of medical treatment for one month

5,000/-

Total

27,000/-

5. According to Ex.P3 - wound certificate, the claimant sustained the fracture of right humerus, The claimant has produced medical bills and prescriptions vide Exs.P5 to P59. Ex.P-60 is the discharge note issued by Jayanagar Orthopedic Hospital, Bangalore. According to the discharge note the claimant was admitted on 25.11.1999 and discharged 29.11.1999. He was treated for lower 1/3 fracture of right humerus. He has produced the X-ray films, which are marked as per Exs. P-65 to P-73. It is claimed that the claimant was 50 years old and working as a Secretary for Grama Panchayati at Handanakere and drawing salary of Rs. 9056/- p.m.

6. Keeping in view, the nature of the injuries sustained and the period of treatment, the tribunal could have awarded reasonable compensation. The claimant has produced medical bills amounting to Rs. 49,196/-. The claimant has not placed any material with regard to the permanent disablement and loss of future earning. Therefore., the claimant is not entitled for any compensation towards "Loss of further earning".

7. In our view, the claimant is entitled for compensation as under:

Rs.

a. Pain & Sufferings

30,000/-

b. Medical Expenses

50,000/-

c. Transportation, Conveyance, Food and Attendant Charges

10,000/-

d. Loss of Earnings for a part of one month

9,000/-

e, loss of comfort and happiness

20,000/-

f. Future medical expenses for removal the implants

10,000/-

Total

Rs. 1,29,000 /-

Less compensation awarded By the Tribunal

Rs. 27,000 /-

Balance

Rs. 1,02,000/-

8. Though the Tribunal has awarded interest at 8% p.a. insofar as the additional compensation is concerned, he is entitled for interest at 6% p.a. In the result, the appeal is partly allowed, holding that the appellant/claimant is entitled for additional compensation of Rs. 1,02,000/- along with costs and interest at 6% per annum from the date of petition till realisation, Accordingly, the impugned judgment and award is modified.

The respondent - KSRTC is directed to deposit the additional compensation amount along with costs and interest with the Tribunal within 3 months from today.

Out of the enhanced compensation amount a sum of Rs. 50,000/- is directed to be kept as a Fixed Deposit in any Nationalized Bank for a period three years, during which period the appellant/claimant is entitled to withdraw the periodical interest that accrues on the deposit