

(2012) 01 KAR CK 0147

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 8210 of 2010 (MV)

Jagadeesh

APPELLANT

Vs

The Managing Director, Bangalore Metropolitan Transport
Corporation, Double Road, Shanthinagar, Bangalore-560027

RESPONDENT

Date of Decision : 03-01-2012

Acts Referred:

Citation : (2012) 01 KAR CK 0147

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

Bench : Single Bench

Advocate : H.B. Sonapur, for the Appellant;

Final Decision : Allowed

Judgement

A.S. Pachhapure

1. The appellant dissatisfied with the amount of compensation awarded by the Tribunal has filed this appeal, seeking enhancement. The facts reveal that on 26.05.2005 at about 9.00 a.m., while the appellant was proceeding in the BMTC bus bearing reg. No. KA 01-F-789, the said bus met with an accident due to the rash and negligent driving by its driver. Thereby, the appellant sustained fracture of the great toe of the left leg and was admitted in the hospital for about a month and claims to have suffered a lot. Thereby he claimed the compensation of Rs. 9,46,600-00.

During the proceedings, the claimant was examined as P.W.1, a witness P.W.2 and the doctor-P.W.3 and the documents Exs.P1 to 12 were marked. The respondent examined R.Ws.1 and 2 and got marked the documents Exs.R1 to 17. The Tribunal on appreciation of the material on record granted total compensation of Rs. 53,400-00 and dissatisfied with the quantum of compensation, the present appeal has been filed.

2. I have heard the learned counsel for the appellant. The respondent though served is absent. So far as the question of negligence is concerned, it has

attained the finality as there is no appeal by the respondent. The appellant has sustained the fracture of great toe of the left leg and was in-patient for a period of one month. In these circumstances, the Tribunal granted Rs. 5,000-00 for pain and sufferings and I think that as the appellant suffered fracture and was in-patient for about a month, an additional sum of Rs. 5,000-00 has to be paid on this head. The Tribunal has considered the income of the appellant at Rs. 3,000-00 p.m. As the accident is of the year 2005, I think it would be just and proper to assess the income at Rs. 3,500-00 p.m. Thereby the appellant is entitled to additional sum of Rs. 1,000-00 towards loss of income during the period of treatment. No compensation has been awarded by the Tribunal for loss of amenities and I think that the appellant is entitled to Rs. 5,000-00 on this head. So also, though the compensation is awarded for medical expenses at Rs. 10,000-00 and nothing has been paid towards the transportation, attendant charges, etc. Hence, the appellant is entitled to a sum of Rs. 4,000-00 on this head. In the circumstances, the appellant is entitled to an additional sum of Rs. 15,000-00 with interest at 6% p. a. Hence, I proceed to pass the following:

ORDER

The appeal is allowed in part. In addition to the compensation of Rs. 53,400-00 awarded by the Tribunal with interest, the appellant is entitled to a sum of Rs. 15,000-00 with interest at 6% p. a. from the date of the petition till its payment. The respondent is granted 3 months time to deposit the sum.