

(2011) 11 KAR CK 0279

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 2085 of 2010 (MV)

K Sundar

APPELLANT

Vs

Shankarappa, Ramachandra M.S. and The United India
Insurance Co. Ltd.

RESPONDENT

Date of Decision : 09-11-2011

Acts Referred:

Citation : (2011) 11 KAR CK 0279

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

Bench : Single Bench

Advocate : R.C. Nagaraj, for the Appellant; C. Shankar Reddy, for R-3, Notice to R1 and 2 is Dispensed, for the Respondent

Final Decision : Allowed

Judgement

Huluvadi.G. Ramesh

1. This appeal is by the claimant seeking for enhancement of compensation as against the award passed by the Fast Track Court No.III and MACT, Mysore in MVC No.812/2006 dated 24.11.2009.

2. Claimant is said to have sustained injuries in a motor vehicle accident occurred on 30.04.2006 in a head on collision between the KSRTC bus driven by the appellant and the lorry bearing No.KA13/3173. The Tribunal, after enquiry held that due to the negligence on the part of the driver of the offending vehicle namely lorry, the accident has occurred and towards the injuries suffered, has awarded a. total compensation of Rs.42,500/- with 6% interest, fastening the liability on the Insurance Company.

3. Heard.

4. The claimant has suffered four grievous following injuries:

1. Fracture of right Ala of ilium with right S.I. joint strain.

2. Right superior and inferior pubic rami fracture.
3. Right femoral condyle fracture (undisplaced)
4. Contusion injury chest with blunt injury abdomen.

The Tribunal has only awarded Rs.24,000/- on the head of pain and suffering and as such, claimant is entitled for another Rs.15,000/- on that head. He has also undergone surgery, hence, he is entitled to another Rs.5,000/- towards medical expenses. Towards loss of amenities, nothing has been awarded, as such, he is entitled for Rs.20,000/ on that head. Claimant was hospitalised for 35 days and thereafter, he was on leave during treatment. Hence towards loss of income during treatment, he would be entitled for another Rs.30,000/- as two months salary. Since he is still in service, he would not be entitled for loss of earning capacity due to disability. However, after retirement, he may be having problem. The claimant is shown to have suffered 50% permanent disability to the particular limb as per the evidence of the doctor and it may be 17-18% to the whole body, which may affect his future earning. Hence, towards loss of future/ post retirement earning due to disability, he would be entitled for a lump sum of Rs.20,000/-.

5. Thus, in all, the claimant would be entitled for Rs.90,000/- over and above what has been awarded by the Tribunal, with 6% interest from the date of petition till deposit. The amount shall be deposited within three months by the Insurer.

Appeal is allowed in part.