
(2013) 06 KAR CK 0048
In the Karnataka High Court
Case No : M.F.A. No. 8489 of 2011 (MV)

K.R. Amba Prasad

APPELLANT

Vs

Divisional Manager, Karnataka State Road Transport
Corporation

RESPONDENT

Date of Decision : 10-06-2013

Acts Referred:

Citation : (2013) 4 ACC 471 : (2013) 4 AKR 153

Hon'ble Judges : N. Ananda, J

Bench : Single Bench

Advocate : Ravishankar S.S, for the Appellant; B.L. Sanjeev, for the Respondent

Judgement

N. Ananda, J.—This is a claimant's appeal for enhancement of compensation. I have heard learned counsel for parties.

2. The other facts not being in dispute, the only point that would arise for consideration in this appeal is:--

Whether claimant is entitled for enhancement of compensation?

3. As per medical records, claimant had suffered following injuries:--

1. There is irregular deep lacerated wound in lateral aspect of right ankle, extending on to hind foot measuring about 15 cms x 3 to 3.5 cms exposing muscles. Tendons, ligaments and bone with some crushing of tendons, ligaments and also crushing of skin. There is swelling around right ankle and foot - C.T. reveals undisplaced incomplete fracture of medial malleolus on right side and also prominent soft tissue lacerations along lateral aspect of right ankle.

2. There is a lacerated wound in I web space of left foot.

4. The discharge summaries would reveal that claimant was admitted to Bharathi Nursing Home at Bangalore on 04.01.2010 and discharged from Nursing Home on 16.01.2010. The claimant had suffered irregular deep lacerated wound

through lateral aspect of right ankle, measuring about 15 cms and exposing muscles, tendons and bone. The claimant was discharged from Bharathi Nursing Home on 16.01.2010. The claimant was admitted for second time to Bharathi Nursing Home at Bangalore on 05.02.2010 as there was some necrosis of skin & soft tissue in lateral aspect of right ankle and foot. The claimant was admitted for third time to Bharathi Nursing Home at Bangalore on 13.02.2010 and discharged from Nursing Home on 15.02.2010. There was post traumatic raw area of right ankle and foot. The claimant was admitted for skin grafting. The photographs marked as Ex. P. 12 would reveal that lateral aspect of right ankle and right foot of claimant are in deformed state, he had suffered extensive injuries to lateral aspect of right ankle and right foot, exposing muscles, tendons and bone. The right ankle joint is swollen and fused. The injury area is not completely healed. There are raw areas on injured right ankle and right foot. The claimant had two admissions for treatment to post traumatic raw area of right ankle and foot.

5. The Tribunal has awarded compensation of Rs. 2,02,000/- under following heads:--

6. On hearing learned counsel for parties and after going through the evidence and impugned judgment, I find that compensation awarded by Tribunal towards "loss of earning capacity & loss of future earnings" is inadequate, so also towards "loss of amenities & enjoyment of life". The Tribunal has not awarded adequate compensation towards "future medical expenses"; The claimant was aged about 60 years at the time of accident. He is a Sericulturist by occupation. The Tribunal has determined income of claimant at Rs. 4,000/- per month. The Tribunal has assessed permanent physical disability vis-a-vis loss of earning capacity at 8%. The claimant was aged about 60 years at the time of accident. Therefore, appropriate multiplier would be "9". Having regard to nature of injuries, permanent physical disability, present condition of right foot of claimant, permanent physical disability vis-a-vis loss of earning capacity is assessed at 15%. Thus, claimant would be entitled to additional compensation of Rs. 34,800/- (Rs. 4,000/- x 12 x 9 x 0.15) towards "loss of earning capacity & loss of future earnings". The claimant has to suffer pain & inconvenience due to disability of right lower limb. The claimant was aged about 60 years at the time of accident. With the advance of age, situation may aggravate. Considering all these aspects, I award additional compensation of Rs. 20,000/- towards "loss of amenities & enjoyment of life". The Tribunal has awarded compensation of Rs. 10,000/- towards "future medical expenses". I have already stated that injury area is not completely healed, still it is susceptible to infection. Therefore, I award additional compensation of Rs. 15,000/- towards "future medical expenses". Thus, claimant is entitled to additional compensation of Rs. 69,800/- and total compensation of Rs. 2,71,800/-. In the result, I pass the following:-

ORDER

The appeal is accepted in part. The impugned award is modified, compensation of Rs. 2,02,000/- awarded by Tribunal is enhanced to Rs. 2,71,800/-. The rest of

the impugned award as it relates to rate of interest, period of accrual of interest, ratio of payment and investment is confirmed.