

(2010) 05 KAR CK 0010

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 2033 of 2008

Krishnappa

APPELLANT

Vs

United India Insurance Company Limited and Another

RESPONDENT

Date of Decision : 25-05-2010

Acts Referred:

Citation : (2011) 2 KarLJ 135 : (2011) 4 KCCR 482 SN

Hon'ble Judges : B. Sreenivase Gowda, J

Bench : Single Bench

Advocate : Girimallaiah, for the Appellant; S. Srishaila, for the Respondent

Judgement

B. Sreenivase Gowda, J.—This appeal is by the claimant for enhancement of compensation awarded by the Tribunal.

2. Heard. The appeal is admitted and with the consent of learned Counsel appearing for the parties, it is taken up for final disposal.

3. For the sake of convenience parties are referred to as they are referred to in the claim petition before the Tribunal.

4. Brief facts of the case are:

That on 11-4-2006 at about 8.30 a.m. when the claimant was crossing Tumkur-Bangalore NH-4 road near Arisinakunte Check-post a motor cycle bearing registration No. KA-06-W-3371 came in a rash and negligent manner and dashed against him due to which he sustained injuries. Hence, he filed a claim petition before the Motor Accident Claims Tribunal, Bangalore (SCCH-8) ("Tribunal" for short) seeking compensation of Rs. 4,00,000/-. The Tribunal by the impugned judgment and award has awarded compensation of Rs. 49,300/- with interest at 6% p.a. Aggrieved by the quantum of compensation awarded by the Tribunal the claimant is in appeal seeking enhancement of compensation.

5. As there is no dispute regarding injuries sustained by the claimant in a motor road accident, and the liability of the Insurance Company, the only point remains

for my consideration is:

Whether the compensation awarded by the Tribunal is just and proper or does it call for enhancement?

6. Learned Counsel appearing for the claimant submits that considering the nature of injuries and duration of treatment the compensation awarded by the Tribunal is on the lower side and therefore he prays for allowing the appeal by enhancing the compensation.

7. Per contra, learned Counsel appearing for the Insurance Company submits that the compensation awarded by the Tribunal is just and reasonable and there is no scope for enhancement and therefore he prays for dismissal of the appeal.

8. After hearing the learned Counsel for the parties and perusing the award of the Tribunal, I am of the view that the compensation awarded by the Tribunal is not just and proper, it is on the lower side and therefore it is deserved to be enhanced.

9. The claimant has sustained fracture of both bones of left leg and lacerated wound over the forehead measuring 3x3 cms. as evident from the wound certificate-Ex. P. 4 and it is supported by the oral evidence of the claimant and the doctor who were examined as P. Ws. 1 and 2 respectively. He was treated as inpatient for about 29 days in SGRC Hospital, Jayanagar, Bangalore. P.W. 2-the doctor who treated the claimant has stated that he has suffered 57% of disability to the lower limb and 19% to the whole body. He is an agriculturist.

10. Considering the nature of injuries sustained by the claimant Rs. 10,000/- awarded by the Tribunal towards pain and sufferings is on the lower side and it is deserved to be enhanced by Rs. 20,000/- and I award Rs. 30,000/- under the said head.

11. The claimant was treated as inpatient in SGRC Hospital for 29 days and he must have spent substantial sums towards medical and incidental expenses. Considering the same Rs. 3,000/- awarded by the Tribunal towards medical and incidental expenses is on the lower side and it is deserved to be enhanced by another sum of Rs. 9,000/- and I award Rs. 12,000/- under this head.

12. The claimant in his evidence has stated that he was earning Rs. 4,000/- by doing agricultural work. But he has not produced any documents in this regard. Considering the year of accident and age of the claimant his income could be assessed at Rs. 2,500/- p.m. Considering the injuries sustained and duration of treatment as inpatient he must have under rest and treatment at least for 4 months and it is just and proper to award Rs. 10,000/- towards loss of income during laid up period.

13. Considering the disability stated by the doctor to the limb and to the whole body Rs. 10,000/- awarded by the Tribunal towards loss of amenities is on the lower side and it is required to be enhanced by another sum of Rs. 5,000/- and I

award Rs. 15,000/- under this head.

14. In view of reassessing the income of the claimant at Rs. 2,500/-p.m. loss of future earning would work out to Rs. 40,500/- (Rs. 2,500/- x 12 x 15% x 9) and it is awarded as against Rs. 20,250/- awarded by the Tribunal.

15. The Tribunal has awarded Rs. 6,000/- towards future medical expenses which is just and reasonable and it does not call for enhancement.

16. Thus in all the claimant is entitled for a total compensation of Rs. 1,13,500/- as against Rs. 49,300/- awarded by the Tribunal with interest at 6% p.a. on the enhanced compensation of Rs. 64,300/- excluding Rs. 6,000/- awarded towards future medical expenses from the date of claim petition till the date of realisation.

17. The Insurance Company is directed to deposit the compensation amount with interest within two months from the date of receipt of a copy of this order and it shall be released in favour of the claimant.

18. Accordingly, the appeal is allowed in part and the judgment and award of the Tribunal is modified to the extent stated hereinabove. No order as to cost.