

(2014) 01 KAR CK 0279
In the Karnataka High Court
Case No : M.F.A. No. 10430/2011 (MV)

Kum. Nagarathna

APPELLANT

Vs

M.V. Vishwanath and The Branch Manager Oriental Insurance
Co. Ltd.

RESPONDENT

Date of Decision : 16-01-2014

Acts Referred:

Citation : (2014) 01 KAR CK 0279

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

Bench : Single Bench

Advocate : B.L. Kumar, Advocate for the Appellant; O. Mahesh for R.2, Advocate for the Respondent

Final Decision : Partly Allowed

Judgement

Huluvadi G. Ramesh, J.—This appeal is by the claimant seeking enhancement of compensation as against the award passed by the Prl. Civil Judge (Sr.Dn.) & Addl. M.A.C.T., Chitradurga in M.V.C. No. 876/2009 dated 18.8.2010.

2. On 2.6.2009 at about 11.45 p.m. when the claimant, along with her brother-in-law, boarded the bus bearing No. KA-16-D-6767 at H.D. Pura in order to go to Chitrahally, the driver of the bus drove the same in a rash and negligent manner and caused accident as a result, the claimant fell down and sustained injuries. The claimant has taken treatment at P.H.C., Chitrahally and District Hospital. Hence, she filed the claim petition before the Tribunal seeking compensation.

3. The respondent contested the matter. The Tribunal raised 3 issues for consideration. After enquiry, the Tribunal held that the accident occurred due to rash and negligent driving of the bus and awarded compensation of Rs. 45,000/- with interest at 6% p.a. from the date of petition till payment under the following heads:

a) Pain and sufferings Rs. 20,000

b) Medical Expenses, nourishment Rs. 10,000

c) Loss of amenities Rs. 15,000

4. Being not satisfied with the quantum of compensation awarded by the Tribunal, the present appeal is filed.

5. As per wound certificate, the claimant sustained following injuries:

a) Abrasion of size measuring 1/2 x 1/2" cm over the medial aspect of left ankle joint

b) Swelling and deformity and pain and tenderness over the middle 1/3rd and lower 1/3rd of left lower leg

6. According to the learned counsel for the respondent, compensation awarded by the Tribunal is just and reasonable and does not require enhancement.

7. Having regard to the nature of injuries, the claimant would be entitled for compensation of Rs. 15,000/- towards "pain and suffering", Rs. 15,000/- towards "incidental expenses" and Rs. 25,000/- towards "loss of amenities". Thus, in all, the claimant is entitled for compensation of Rs. 55,000/- over and above the compensation awarded by the Tribunal with interest at 6% p.a. from the date of claim petition till deposit excluding interest for the delay period of 346 days in filing the appeal.

8. Accordingly, the appeal is allowed-in-part. The Insurance Company is directed to deposit the compensation amount with interest within three months.