

(2012) 08 KAR CK 0191

In the Karnataka High Court

Case No : Miscellaneous First Appeal 7332 / 2011 (MV)

Kumar

APPELLANT

Vs

Jayaramegowda

RESPONDENT

Date of Decision : 08-08-2012

Acts Referred:

Citation : (2012) 08 KAR CK 0191

Hon'ble Judges : Huluvadi G. Ramesh, J

Bench : Single Bench

Advocate : B. Chetan, for the Appellant; O. Mahesh, for R2, for the Respondent

Judgement

Huluvadi G. Ramesh

1. Appeal is by the claimant seeking enhancement of compensation awarded by the Addl. MACT, Hassan in MVC 851 / 2010 on. On 18.12.2009 around 7.00 p.m. while the claimant along with his friend was going on his motorcycle bearing No. KA 18 J 6478 near Chikkabuvanahalli, at that time, a Ape Auto bearing No. KA 13 A 5916 came in a rash and negligent manner and dashed to the motorcycle. Due to the impact, claimant sustained grievous injuries. In the claim petition filed, Tribunal having held that the accident was due to the negligence of the offending vehicle, awarded total compensation of Rs. 1,20,000/- on the following heads::

Medical Expenses

Rs. 25,000/-

Pain & suffering

Rs. 30,000/-

Loss of future income

Rs. 38,000/-

Loss of amenities

Rs. 15,000/-

Medical attendant & nutritious food

Rs. 10,000/-

Loss of income during treatment

Rs. 2,000/-

2. Not satisfied with the quantum of compensation, claimant is in appeal.

3. Heard the counsel representing the parties.

4. According to the appellant's counsel, accident is of the year 2009 and claimant has sustained fracture of the tibia and pubic rami. Though the disability is assessed at 20% to the lower limb, the Tribunal has taken the percentage of disability to the whole body on the lower side and even the income is taken on the lower side. Claimant was doing agriculture and poultry business. Stating that the compensation awarded is on the lower side on all heads, he seeks for enhancement.

5. Per contra, counsel representing the insurer submitted, the quantum of compensation awarded is just and proper and does not require any enhancement.

6. Having regard to the nature of injuries sustained, claimant could be awarded another Rs. 10,000/- towards loss of amenities and enjoyment in life; Rs. 10,000/- towards loss of earning during laid up period and taking the disability to the whole body around 7%, since Rs. 76,800/- is already awarded, another Rs. 38,800/- could be awarded towards loss of future earnings. Thus, claimant would be entitled to Rs. 58,800/- over and above what has been awarded by the Tribunal with 6% interest from the date of petition till deposit. Insurer to deposit the amount in three months. Appeal is allowed in part.