

(2011) 03 KAR CK 0265
In the Karnataka High Court
Case No : M.F.A. No. 11151 of 2007

Kumari C. Ramya, represented by natural guardian/father,
Sri. P. Chandra

APPELLANT

Vs

Sri. Joseph Vishwanath and The New India Assurance Co.
Ltd.

RESPONDENT

Date of Decision : 29-03-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2011) 03 KAR CK 0265

Hon'ble Judges : N.K. Patel, J

Bench : Single Bench

Advocate : N. Gopalkrishna, for the Appellant; R. Jaiprakash, for R2, for the Respondent

Judgement

N.K. Patel, J.—This appeal by the claimant is directed against the impugned judgment and award dated 16th February 2007, passed in M.V.C. No. 4617/2004, by the 14th Additional Judge, Member, Motor Accident Claims Tribunal Bangalore, (SCCH-10), (for short, Tribunal") for enhancement of compensation on the ground that, the compensation of Rs. 70,000/- awarded in favour of the claimant as against her claim for Rs. 06.00 Lakhs, is inadequate.

2. The occurrence of accident at about 5:45 P.M. on 17/06/2004 and the resultant injuries sustained are not in dispute. It is also not in dispute that the Appellant was a minor, aged about 9 years as on the date of accident and hale and healthy prior to it.

3. On account of the injuries sustained in the accident, the Appellant filed the claim petition u/s 166 of the Motor Vehicles Act, before the Tribunal, seeking compensation of a sum of Rs. 06.00 lakhs against the Respondents. The said claim petition had come up for consideration before the Tribunal on 16th February 2007. The Tribunal, after considering the relevant material available on file and after appreciation of the oral and documentary evidence, allowed the

claim petition in part, awarding a sum of ₹70,000/- with interest at 6% per annum, from the date of petition till the date of realization. Being dissatisfied with the quantum of compensation awarded by the Tribunal, the Appellant is in appeal before this Court, seeking enhancement of compensation.

4. I have heard learned Counsel for Appellant and learned Counsel for second Respondent-Insurer, for quite some time.

5. Learned Counsel appearing for both the parties, after due deliberations in the matter, after going through the original records available on file and taking into consideration the age, avocation, the year of accident, nature of injuries sustained and the disability assessed by Doctor, period of treatment undergone and other relevant, aspects, fairly submitted that another sum of Rs. 40,000/- with interest at 6% from the date of petition till the date of realization may be awarded, in addition to the compensation of ₹70,000/- awarded by Tribunal, in full and final settlement of the claim of the parties.

6. Placing the said submission of the learned Counsel for the parties, on record, the appeal filed by Appellant is allowed in part. The impugned judgment and award dated 16th February 2007, passed in M.V.C. No. 4617/2004, by the 14th Additional Judge, Member, Motor Accident : Claims Tribunal. Bangalore, (SCCH-10) is hereby modified, awarding a sum of Rs. 40,000/- with interest at 6% per annum, in addition to the compensation awarded by Tribunal.

The Insurance Company is directed to deposit the enhanced compensation of Rs. 40,000/- with interest thereon at 6% per annum, within four weeks from the date of receipt of copy of the judgment and award.

On such deposit by the Insurance Company, the entire sum shall be released in favour of the Appellant, through her natural guardian, father, immediately.

Office to draw award, accordingly.