

(2012) 03 KAR CK 0148

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 6247 of 2008 (MV)

Kumari Divya represented by Father and Natural Guardian
Sri. Venkatesh

APPELLANT

Vs

S.T. Chandre Gowda and The United India Insurance
Company Ltd. P.B. No. 108, S.V. Building, B.M. Road, Hassan

RESPONDENT

Date of Decision : 13-03-2012

Acts Referred:

Citation : (2012) 03 KAR CK 0148

Hon'ble Judges : B. Sreenivase Gowda, J

Bench : Single Bench

Advocate : K.N. Praveen Kumar and Associates, for the Appellant; C. Shankara Reddy, for R.2, for the Respondent

Final Decision : Allowed

Judgement

B. Sreenivase Gowda

1. This appeal is by the claimant seeking enhancement of compensation awarded by the Tribunal. Although the appeal is listed in the orders list, it is heard, admitted and with the consent of learned Counsel appearing for the parties, it is taken up for final disposal.

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

3. As there is no dispute regarding injuries sustained by the claimant in a road traffic accident occurred on 27.08.2003 due to rash and negligent driving of Maruthi Van bearing registration No. KA-18-M-1301 by its driver and liability of the insurer of the offending vehicle, the only point that remains for my consideration in the appeal is:

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

4. As per wound certificate Ex. P 2, claimant has sustained fracture of medial malleolus. Injuries sustained by him are supported by oral evidence of the claimant and doctor examined as P.Ws 1 and 2 respectively.

PW 2 Dr. Abdul Basheer who treated the claimant in his evidence has stated the claimant has suffered permanent physical disability of 15% to 18% to right leg.

5. Considering the nature of injuries and treatment taken by the claimant, Rs.20,000/- is awarded towards pain and suffering as against Rs. 15,000/- awarded by the Tribunal.

6. The claimant has produced medical bills for Rs.2,171/-. He was treated as inpatient in the hospital for 4 days. Considering the same Rs.5,000/- is awarded towards medical and incidental expenses as against Rs.3,000/- awarded by the Tribunal.

7. Considering the disability stated by the Doctor and an amount of discomfort and unhappiness which the claimant has to undergo for the rest of his life, Rs.15,000/- is awarded towards loss of amenities as against Rs. 10,000/- awarded by the Tribunal.

8. The Tribunal considering the age of the claimant and disability stated by the claimant has rightly awarded Rs.22,500/- towards loss of future earning and there is no scope for enhancement under this head.

9. Thus the claimant is entitled for the following compensation:

1)

Pain and suffering

Rs. 20,000/-

2)

Medical and Incidental expenses

Rs. 5,000/-

3)

Towards loss of amenities

Rs. 15,000/-

4)

Towards loss of future Income

Rs. 22,500/-

Total

Rs. 62,500/-

Less compensation awarded By the Tribunal

Rs. 50,500/-

Additional compensation comes to

Rs. 12,000/-

10. Accordingly the appeal is allowed in part and the judgment and award of the Tribunal is modified to the extent stated herein above. The claimant is entitled for an additional compensation of Rs. 12,000/- with interest at 6% p.a. excluding interest for 191 days from the date of claim petition till the date of realisation. The Insurance Company is directed to deposit the additional compensation amount together with interest but excluding interest for 191 days within two months from the date of receipt of a copy of this judgment and the same is ordered to be released in favour of the claimant.

No order as to costs.