

(2011) 03 KAR CK 0242
In the Karnataka High Court
Case No : MFA No. 8625 of 2010

Lakshmedevi

APPELLANT

Vs

United India Insurance Co. Ltd. and K.H. Basavappa

RESPONDENT

Date of Decision : 11-03-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2011) 03 KAR CK 0242

Hon'ble Judges : H.S. Kempanna, J

Bench : Single Bench

Advocate : D.R. Nagaraja and Spoorthy Hegde N, for the Appellant;

Final Decision : Dismissed

Judgement

H.S. Kempanna, J.—This appeal by the claimant is directed against the common judgment and award dated 10.06.2010 passed In MVC No. 827/2008 by the II Additional Senior Civil Judge and Additional MACT, Chitradurga seeking for enhancement of compensation in respect of the injuries which she has sustained In a motor accident.

2. The brief facts of the case are:

The Appellant/claimant filed claim petition u/s 166 of M.V. Act before the Tribunal praying for grant of compensation, in respect of bodily injuries, which she sustained in the motor accident that took place on 31.12.2007 at about 5.00 p.m. while she was proceeding walking on the road near Kempaladevaru temple involving the tractor trailer tearing registration No. KA-16/T-4779-80 owned by the first Respondent and insured with the second Respondent at the relevant point of time. In the impugned accident she sustained sever injuries for which she took treatment by spending huge money. Despite the same, she is not completely cured of the injuries, due to which she is unable to carry on her evocation as coolie worker, which has resulted in loss of income.

3. On service of notice, the Respondents appeared through their respective

counsels and contented the claim, of the Petitioner. They contended that the accident has not taken place on account of the fault, of the driver of the tractor-trailer. Further the insurer contended that the driver of the offending tractor trailer did not possess any valid and elective licence to drive the tractor in question at the time of the accident. Hence there is breach of terms and conditions of the policy issued and accordingly, they are not liable to pay any compensation and sought for dismissal of the petition.

4. The Tribunal, thereafter considering the oral and documentary evidence on record held that the accident in question has taken place due to fault of the driver of the offending tractor trailer and as such the claimant has established actionable negligence. Further, the Tribunal looking to the evidence of the claimant wound certificate and discharge summary which are at Exs. P10 and 11 has awarded a global compensation of Rs. 8,000/- with interest at 6% per annum, from the date of petition till realization. It further saddled the liability of payment of compensation on the second Respondent-insurer to the claimant.

5. The Appellant/claimant being aggrieved of the quantum of compensation awarded is in appeal before this Court.

6. The learned Counsel appearing for the Appellant/ claimant submitted that the Tribunal has not awarded just and reasonable compensation having regard to the nature of the injuries sustained, the period for which the claimant was in the hospital, hence a case for enhancement is made out.

7. Per contra the learned Counsel appearing for the contesting Respondents supported the Impugned judgment and award of the Tribunal

8. The facts are not in dispute. The claimant having met with accident, injury sustained treatment taken are also not in dispute. A perusal of the impugned order dealing with the case of the present Petitioner which is at paragraph 21 and 22 reveals that the Appellant/claimant has sustained 1) contusion and tenderness over left ear and 2) Contusion and tenderness over right hip. Except these two injuries, there is nothing on record to show that she has sustained any other serious injuries. The Tribunal considering these aspects into consideration has awarded a global compensation Rs. 8,000/- with interest at 6% per annum from the date of petition till realization to the claimant. Though the counsel for the Appellant vehemently submitted that the said compensation awarded is not commensurate with the injuries sustained and the period for which she was in the hospital, since the injuries are simple in nature and as no other documents are made available either before the Tribunal or before this Court to show that she has sustained severe injuries than what has been reflected in the order, the compensation of Rs. 8,000/- with interest at 6% per annum from the date of petition till realization awarded to the claimant by the Tribunal is just and proper and does not call for any modification.

9. In result for the foregoing reasons, I proceed to pass the following:

ORDER

Appeal is dismissed as not being admitted.