

(2014) 04 KAR CK 0190
In the Karnataka High Court
Case No : M.F.A. No. 5892/2010 (MV)

Mahadevamma

APPELLANT

Vs

H.S. Mahadevaiah

RESPONDENT

Date of Decision : 07-04-2014

Acts Referred:

Citation : (2014) 04 KAR CK 0190

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

Bench : Single Bench

Advocate : G.M. Ananda and Smt. Asha B.L., Advocate for the Appellant; K.L. Sreenivas, Advocate for R-1 and Sri A.M. Venkatesh, Advocate for R-2, Advocate for the Respondent

Final Decision : Partly Allowed

Judgement

Huluvadi G. Ramesh, J.—This appeal by the claimant seeking enhancement of compensation is against the judgment and award passed by the Fast Track Court-I, MACT, Mandya, in MVC. No. 106/2006, dated 25th January 2010.

2. It is the case of the claimant that on 4.6.2001 at about 2.00 p.m. when she was going along with her brother-in-law on motorcycle bearing registration No. KA-11-J-8251 from Honnalagere to Nidasale village, a Maxi Cab bearing registration No. KA-09-4137 came in a rash and negligent manner and dashed against the motorcycle due to which, she fell down and sustained grievous injuries. As such, claimant filed claim petition before the Tribunal seeking compensation.

3. On the matter being contested by the respondent-insurer, the Tribunal raising relevant issues for consideration, after enquiry, holding that the accident was due to negligence on the part of the driver of the Maxi cab in question, awarded total compensation of Rs. 83,800/- with interest at 6% p.a. under the following heads:

Being not satisfied, the claimant/appellant is before this Court seeking enhancement of compensation.

Heard the learned counsel representing the parties.

4. As per the wound certificate, claimant has sustained abrasion over forehead, contusion of right palm occipital region, sutured wound over dorsum of right hand and multiple abrasion over right hand forearm. It is also stated that claimant has sustained fracture of 5th metacarpal. She was treated first at Mandya General Hospital and thereafter at NIMHANS hospital for head injury. She had undergone surgery at NIMHANS. As per the medical evidence, claimant has sustained 50% of disability to right upper limb and 5% to the whole body. She was aged 40 years as on the date of the accident. Having regard to the nature of injuries suffered by the claimant, she is awarded another sum of Rs. 10,000/- towards pain, suffering and Rs. 30,000/- towards loss of amenities and enjoyment in life and Rs. 10,000/- towards incidental expenses. Taking the income between Rs. 3,500/- to Rs. 4,000/- per month, claimant is awarded another sum of Rs. 32,000/- towards loss of future income due to disability. Thus, in all the claimant is entitled to compensation of Rs. 82,000/- over and above the compensation awarded by the Tribunal with interest at the rate of 6% p.a. from the date of petition till the date of deposit. The impugned judgment and award passed by the Tribunal is modified accordingly. The respondent-insurer to deposit the amount within three months. The claimant is not entitled for interest on the enhanced amount for the delay period.

Appeal is allowed in part accordingly.

Sri A.M. Venkatesh, learned counsel is permitted to file vakalat within four weeks.