

(2011) 09 KAR CK 0003
In the Karnataka High Court
Case No : MFA.No. 1701 of 2009 (MV)

Master Kiran Since The Petitioner Is Minor Hence APPELLANT
Represented By His Mother Smt. Kusuma

Vs

Shri. K. Shivanna, Shri. Chetan Kumar and United India RESPONDENT
Insurance Company Limited

Date of Decision : 23-09-2011

Acts Referred:

Citation : (2012) 2 TAC 959

Hon'ble Judges : B. Manohar, J

Bench : Single Bench

Advocate : A.S. Girish, for the Appellant; Krishna Kishore, for R3, R1 Dispensed,
for the Respondent

Final Decision : Allowed

Judgement

B. Manohar

1. This is claimant's appeal, being not satisfied with the quantum of compensation awarded to him by the Motor Accidents Claims Tribunal (for short "the Tribunal"), Bangalore dated 16-10-2008 made in MVC No.7624/2007, filed this appeal seeking for enhancement of compensation.

2. The brief facts of the case are as follows:

On 18-10-2007 at about 7.30 p.m., when the minor appellant was standing near the shop of his residence at Doddatoguru village road, the rider of the motorbike bearing registration No.KA-06-R-6131, came in a rash and negligent manner and dashed against the claimant. Due to the accident, the appellant sustained injuries and he was admitted to the St. John's Medical College Hospital for treatment and thereafter at Jayachamarajendra Government Hospital, Hassan. The Doctor who has treated the appellant stated that there is fracture of left femur and injury to the right leg. The claimant claim that he was aged about 8 years, studying in III Standard. Due to the accident, his parents have spent huge

amount for his treatment and he could not attend the school which affected his academic; career and his parents also could not attend to their duty. Hence, he has sought for compensation of Rs.3,00,000/-.

3. The Tribunal after considering the oral and documentary evidence let in by the parties and on considering the injuries and the disability sustained by the claimant, awarded a sum of Rs.25,000/- towards pain and sufferings, Rs.3,635/- towards medical expenditure; Rs.5,000/- towards incidental charges; Rs.7,000/- towards loss of income of the mother of the claimant during treatment period and Rs.20,000/- towards loss of amenities in life. Thus, in all, the Tribunal has awarded a sum of Rs.60,635/- as compensation to the claimant. Being not satisfied with the same, the claimant has filed this appeal seeking for enhancement of compensation.

4. Sri. A.S. Girish, learned counsel appearing for the appellant contended that the compensation awarded by the Tribunal is on the lower side on all the heads. Due to the accident, the parents of the claimant have spent huge amount for his treatment. In view of the fracture of femur, the mother of the claimant had to apply leave and take care of the appellant. He was inpatient in the hospital for a period of 31 days and thereafter he was under the treatment for more than 60 days. Hence, sought for enhancement of compensation.

5. On the other hand, the Advocate appearing for the respondents have argued in support of the judgment and award passed by the court below and sought for dismissal of the appellant.

6. I have carefully considered the arguments addressed by the learned counsel for the parties and perused the judgment and award and also the oral and documentary evidence let in by the parties.

7. It is not in dispute that the claimant has sustained injuries in a road traffic accident that occurred on 18-10-2007. Due to the accident the appellant has suffered compound fracture of left femur and bleeding injuries over the right ankle. He was in the hospital for 31 days. Though the claimant claim that his parents have spent Rs.35,000/- towards his treatment and Rs.20,000/-towards other expenses, no documents has been produced in this regard.

8. On going through the quantum of compensation awarded by the Tribunal and the injuries sustained by the appellant, I find that the compensation awarded is on the lower side and the appellant is entitled for higher compensation. He is entitled for additional compensation of Rs.20,000/- towards pain and sufferings; Rs.10,000/-towards incident expenses; Rs.10,000/- towards loss of income of the mother of the appellant during the treatment period and further sum of Rs.20,000/- towards loss of amenities. Thus, in all, Rs.60,000/- has been awarded as enhanced compensation to the appellant.

9. In the result, the appeal is allowed in part. The appellant is entitled to enhanced compensation of Rs.60,000/- with interest at the rate of 6% p.a. from

the date of petition till the date of realization. Out of the enhanced compensation, a sum of Rs.40,000/- is ordered to be deposited in the Fixed Deposit in any Scheduled Bank for a period of five years. However, the mother of the appellant is entitled to withdraw the periodical interest. Rest of the amount be released in favour of the claimant.