

(2011) 09 KAR CK 0141
In the Karnataka High Court
Case No : M.F.A. No. 4097 of 2011 (MVC)

Meena

APPELLANT

Vs

The Mahaging Director KSRTC, Central Division, K.H. Road,
Shanthinagar, Bangalore-27

RESPONDENT

Date of Decision : 20-09-2011

Acts Referred:

Citation : (2011) 09 KAR CK 0141

Hon'ble Judges : B. Sreenivase Gowda, J

Bench : Single Bench

Advocate : P.V. Kalpana, for the Appellant; K. Nagaraja, 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,

2. Heard, the appeal is admitted and with the consent of the learned counsel appearing for the parties, it is taken up for final disposal

3, For the aske of convenience, the parties are referred to they are referred to in the claim petition before the Tribunal.

4. As there no dispute regarding injuries sustained by the claimant in a road traffic accident occurred on 27.11.2008 due to rash and negligent driving of KSRTC bus bearing registration Mo, KA-01-F-8028-by its driver and liability of the KSRTC, the only point that arise for my consideration in the appeal is:

whether quantum of compensation awarded by the Tribunal is just and reasonable or does & call for enhancement?

5. After hearing the learned counsel appearing for the parties and perusing the judgment and award of the Tribunal I am of the view that the compensation

awarded by the Tribunal is not just And reasonable, it is on the lower side and hence it is required to be enhanced.

6. The claimant has sustained the following injuries :

- a) Injury to right shoulder and arm
- b) injury to the right elbow
- c) Injury to the right forearm
- d) injury to the right wrist X-ray showed
 - a) Anterior dislocation of right shoulder
 - b) Head injury
 - c) Undis placed fracture infra orbital region

The injuries sustained by the claimant are evident from the wound certificate Ex.P-6, discharge summary Ex.P-7, CT Scan film Ex.P-11, case sheet Ex.P-12, X-rays Exs.P-13 and supported by oral evidence of the claimant- and doctor, who were examined as PWs-1 and 2 respectively PW-2 the doctor in his evidence has stated that claimant suffered disability of 10% to the whole body,

7. Considering the nature of injuries Rs. 20,000/- awarded by the Tribunal towards "pain and suffering is an the lower side and it is deserved to be enhanced, by another Rs.10,000/- and I award Rs.30,000/ under this head.

8. In the absence of production of medical bills regarding amount spent towards medical expenses and treatment taken considering the nature of injuries and duration of treatment Rs 5,000/- awarded by the Tribunal toward "medical and incidental expenses" is just and proper and there is no scope for enhancement under the head.

9. The claimant claims to have been working as a labour and earning a sum of Rs. 6,000/- per month, but the same is not established, by producing any documents. In the absence of proof of income, the Tribunal has rightly assessed her income at Rs.3,000/-per month, The nature of injuries suggest that she must have been under rest and treatment far period of 3 months and therefore a sum of Rs.9,000/- awarded towards "loss of income during laid up period" as against Rs.3,000/- awarded by the Tribunal

10. Considering the disability stated by the doctor and an amount of discomfort and unhappiness the claimant has to undergo in her future life, a sum of Rs.20,000/- is awarded, towards "loss of amenities" as against Rs. 3,000/- awarded by the Tribunal.

11. As Rs. 30,600/- awarded by the Tribunal towards "loss of future income" is as per disability stated by the doctor, the same is just and proper and there is no scope for enhancement under this head.

12. Thus, the claimant is entitled for the Allowing compensation:

a) Pain and sufferings

- Rs.30,000

b) Medical & incidental expenses

- Rs.5,000

c) Loss of income during laid up period

- Rs. 9,000

d) Loss of amenities

- Rs. 20,000

e) Loss of future income;

-Rs.30,000

TOTAL

Rs. 94,600

13. Accordingly, the appeal is, allowed in part. The judgment and award passed by the Tribunal is modified to the extent stated herein above. The claimant is entitled for a total compensation of Rs. 94,600/- as against Rs.64,650 awarded by the Tribunal with interest at 6% p.a on the enhanced compensation of Rs. 30,000/- from the date of claim petition till the date of realisation excluding (sic) for the delayed period of 179 days in filing the appeal,

14. The KSRTC is directed to deposit the enhanced compensation amount together with interest within two months from the date of receipt of a copy of this judgment excluding interest for the delayed period of 179 days in filing the appeal 15. Out of the enhanced compensation, Rs. 20,000/- with proportionate interest is ordered to be invested in fixed deposit in the name of claimant in any Nationalised Bank/Scheduled Bank/Post Office for a period of 6 years renewable from time to time and with a right of option to withdraw interest periodically Remaining amount with proportionate interest is ordered to be released in favour of the claimant immediately after the deposit it.

16. No order as to costs.