

(2011) 03 KAR CK 0108
In the Karnataka High Court
Case No : M.F.A. No. 4712 of 2009

Mohan

APPELLANT

Vs

Divisional Controller, K.S.R.T.C., Hassan Division

RESPONDENT

Date of Decision : 29-03-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2011) 03 KAR CK 0108

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : A.R. Sharadamba, for the Appellant; C. Shankar Goud, for the Respondent

Judgement

N.K. Patil, J.—This appeal by the claimant is directed against the impugned judgment and award dated 11th February 2009, passed in M.V.C. No. 369/2007, by the Additional District Judge, Member, Motor Accident Claims Tribunal-II, Hassan, (for short, "Tribunal") for enhancement of compensation on the ground that, the compensation of Rs. 2,93,000/- awarded in favour of the claimant as against his claim for Rs. 06.00 Lakhs, is inadequate.

2. The Appellant claims to be aged about 22 years, working as Mechanic and hale and healthy prior to the date of accident. That the occurrence of accident at about 8:50 A.M., on 10-11-2006, in front of the house of Srinivasa - near Megala Hosakoppalu, Hoiennarasipura Road, on account of rash and negligent driving by the driver of the KSRTC bus and the resultant injuries sustained by the Appellant are not in dispute.

3. It is the case of the Appellant that on account of the accident he has undergone treatment in the Hospital as in-patient for about. 20 days and sustained fracture of tibia and was operated for fixing rod for ribia bone and the Doctor has assessed the functional disability of 30% in respect of right leg and 25% in respect of right hand and he has spent considerable amount towards conveyance, nourishing food and attendant charges including medical expenses

and other incidental expenses and therefore, he has to be compensated reasonably.

4. On account of the injuries sustained in the accident, the Appellant tiled the claim petition u/s 166 of the Motor Vehicles Act, before the Tribunal, seeking compensation of a sum of Rs. 06.00 lakhs against the Respondent and two others. The said claim petition had come up for consideration before the Tribunal on 11th February, 2009. The Tribunal, after considering the relevant material available on file and after appreciation of the oral and documentary evidence, allowed the claim petition in part, awarding a sum of Rs. 2.93,000/- with interest at 6% per annum from the date of petition till the date of realization. Being dissatisfied with the quantum of compensation awarded by the Tribunal, the Appellant is in appeal before this Court, seeking enhancement of compensation.

5. I have heard learned Counsel for Appellant and learned Counsel for Respondent Corporation, for considerable length of time.

6. After hearing learned Counsel for the parties and after perusal of the judgment and award passed by Tribunal including the original records placed before me. I am of the view that, the Tribunal has erred in not awarding any compensation towards loss of amenities, discomfort and unhappiness and the compensation awarded towards conveyance, nourishing food and attendant charges is on the lower side. The Doctor has assessed the functional disability of 30% to right leg and 25% to right, hand and the Tribunal has taken the whole body disability at 15%. The Appellant has sustained the injuries as stated above including fracture and the Appellant at this age, has to pull on the rest of his life with this disability. But, the Tribunal has failed to award any compensation towards loss of amenities, discomforts and unhappiness on account of disability.

7. Therefore, having regard to the nature of injuries sustained, the functional disability assessed by Doctor, and taking into consideration all the relevant aspects, I am of the view that the claimant Appellant is entitled to a sum of Rs. 30,000/- towards loss of amenities, discomfort and unhappiness and sum of Rs. 20,000/- towards conveyance, nourishing food and attendant charges. Totally, the enhancement of compensation would be Rs. 50,000/- with interest at 6% per annum from the date of petition till the date of realisation.

8. In the light of the facts and circumstances of the case, as stated above, the appeal filed by Appellant is allowed in part. The impugned judgment and award dated 11th February 2009, passed in M.V.C. No. 369/2007, by the Additional District Judge, Member, Motor Accident Claims Tribunal-II, Hassan, is hereby modified, awarding a sum of 50,000/- with interest at 6% per annum, in addition to the compensation awarded by Tribunal.

The Respondent Corporation is directed to deposit the enhanced compensation of Rs. 50,000/-, with interest thereon at 6% per annum, within four weeks from the date of receipt of copy of the judgment and award.

On such deposit by the Corporation, the entire sum shall be released in favour of the Appellant, immediately.

Office to draw award, accordingly.