

(2012) 08 KAR CK 0032

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 3361 of 2012 (MV)

Mohan Kumar

APPELLANT

Vs

N.R. Vishwanatha and The Branch Manager The Bajaj Allianz
General Insurance Co. Ltd., Crystal ARC Balamat Road,
Mangalore

RESPONDENT

Date of Decision : 01-08-2012

Acts Referred:

Citation : (2012) 08 KAR CK 0032

Hon'ble Judges : Huvadi G. Ramesh, J

Bench : Single Bench

Advocate : Kavitha H.C, for the Appellant; E.I. Sanmathi, Advocate for R-2, for the Respondent

Judgement

Huvadi G. Ramesh

1. Accepting the cause shown, the delay of 313 days in filing the appeal is condoned. However, the claimant is not entitled to interest for the delay period. This appeal is by the claimant seeking enhancement of compensation against the award dated 19.2.2011 passed by the Addl. Civil Judge (Sr.Dn.) and Addl. MACT, Hassan, in MVC No. 927/2005.

2. On 1.5.2005, at about 6 a.m. when the claimant was waiting for the Bus near the old Bus Stand Cross Road, Shanthi Grama, at that time, a Maruthi Car bearing No. KA-04-N-7474 came from Hassan side in a rash and negligent manner and dashed against the claimant. As a result, the claimant sustained injuries to his both legs, head, forehead, face, nose and other parts of the body. He was admitted to S.C. Hospital, Hassan, and later was shifted to Sanjay Gandhi Hospital, Bangalore, for further treatment. He was also treated at Shekar Hospital. He was treated as in-patient for nearly 20 days and was also kept in Intensive Care Unit. He is said to have spent Rs. 2/- lakh towards medical expenses and Rs. 50,000/- towards transport, diet and conveyance.

3. In the claim petition filed, the Tribunal having held that the accident was due to the rash and negligent driving of the driver of the Maruthi Car in question, has awarded compensation of Rs. 2,77,800/- on the following heads.

Medical expenses

Rs. 1,35,000/-

Pain, injuries and sufferings

Rs. 20,000/-

Loss of future earnings

Rs. 91,800/-

Loss of amenities and enjoyment in life

Rs. 20,000/-

Conveyance, nourishment and attendant charges

Rs. 5,000/-

Loss of earnings during the period of treatment and rest

Rs. 6,000/-

Total

Rs. 2,77,800/-

4. Heard.

5. The claimant is said to have sustained fractures, that is comminuted fracture of both the bones of right leg and left leg and blunt injury over the chest. The claimant is said to have undergone surgery and implants are inserted. The Doctor has assessed the disability at 25% to the whole body.

6. Taking the income of the claimant at Rs. 3,000/- per month, the Tribunal has awarded Rs. 91,800/- towards "loss of future earnings". The accident is of the year 2005. Having regard to the nature of injuries suffered by the claimant, an additional sum of Rs. 20,000/- is awarded under "pain and sufferings". Another sum of Rs. 10,000/- is awarded under "loss of amenities and enjoyment in life". Under "Conveyance, nourishment and attendant charges", another sum of Rs. 10,000/- is awarded and under "loss of earning during laid-up period, another sum of Rs. 10,000/- is awarded and another sum of Rs. 20,000/- is awarded under "loss of future earnings", taking the income of the claimant on the higher side. Another sum of Rs. 10,000/- is awarded towards the future medical expenses which shall not carry any interest.

7. The appeal is allowed in part accordingly. The claimant is entitled to compensation of Rs. 80,000/- over and above the compensation awarded by the

Tribunal. Out of enhancement amount of Rs. 80,000/-, Rs. 70,000/- shall carry interest at 6% per annum from the date of petition till the date of deposit. The Insurer to deposit the amount within three weeks from the date of receipt of a copy of this order.