

(2014) 02 KAR CK 0058
In the Karnataka High Court
Case No : M.F.A. No. 10754/2011 (MV)

Mrs. Subalaxmi

APPELLANT

Vs

Dr. Dharmapal, Divisional Manager, Oriental insurance Co.
Ltd. and Haneef

RESPONDENT

Date of Decision : 12-02-2014

Acts Referred:

Citation : (2014) 02 KAR CK 0058

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

Bench : Single Bench

Advocate : Sandesh Shetty T, Advocate for the Appellant; H.C.
Vrushabhendraiah, Advocate for R-2 and 4, Advocate for the Respondent

Final Decision : Partly Allowed

Judgement

H.G. Ramesh, J.—This appeal by the claimant seeking enhancement of compensation is against the judgment and award passed by the Fast Track Court, Mangalore, in MVC. No. 112/2010.

2. It is the case of the claimant that on 8.10.2009 at about 8.00 p.m. when she was travelling in an auto rickshaw bearing registration No. KA-21-8713 from Mukve side towards Puttur, a Maruthi car bearing registration No. KA-21-P-4008 came in a rash and negligent manner and dashed against the autorickshaw due to which, she sustained grievous injuries. Immediately she was shifted to Mahaveera Hospital, Puttur and thereafter to Tejaswini Hospital, Mangalore where she took treatment as inpatient up to 21.10.2009. As such, claimant filed claim petition before the Tribunal seeking compensation.

3. On the matter being contested by the respondent-insurer, the Tribunal raising as many as three issues after enquiry, holding that the accident was due to negligence on the part of the driver of the Maruthi car in question, awarded total compensation of Rs. 2,25,000/- with interest at 6% p.a. from the date of petition till the date of deposit 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 tenderness over L-3-L4 area on the back and is unable to move the lower limbs. The X-ray of L-2 spine discloses fracture dislocation of L3-L4. It is stated that rod has been fixed. Having regard to the nature of injuries sustained, claimant would be entitled for another sum of Rs. 10,000/- towards loss of amenities and enjoyment in life, Rs. 15,000/- towards incidental expenses, Rs. 15,000/- towards loss of future earning due to disability and Rs. 10,000/- towards future medical expenses. Thus, in all the claimant is entitled to compensation of Rs. 50,000/- over and above the compensation awarded by the Tribunal. Out of which, Rs. 40,000/- shall carry 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 insurer to deposit the amount within three months. However, the claimant is not entitled to interest on the enhanced amount for the delay period.

Appeal is allowed in part accordingly.

Sri H.C. Vrushabhendraiah, learned counsel is permitted to file vakalat within four weeks from today.