(2013) 12 KAR CK 0466

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 10327 of 2012 (MV)

M/s. Reliance General Insurance Co. Ltd. APPELLANT

Vs

Syed Habeebulla @ Habeebulla and M/s. Concorde Housing Corporation Pvt. Ltd. RESPONDENT

Date of Decision : 05-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0466

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : D.S. Sridhar, for the Appellant; Shripad V. Shastri, for R1 and Sri Yeshu Mishra, for R2, for the Respondent

Final Decision : Partly Allowed

Judgement

S. Abdul Nazeer, J.—Though the matter is listed for Orders, by consent of the learned Counsel for the parties to the lis, it is taken up for final hearing, heard and disposed of by this judgment. M/s. Reliance General Insurance Company Limited has filed this appeal challenging the judgment and award in MVC No. 1786/2011 dated 7.7.2012 on the file of the Motor Vehicle Accident Claims Tribunal, Bengalore, whereby the Tribunal has awarded total compensation of Rs. 3,27,400/- with interest at 6% per annum from the date of the petition till the date of deposit in favour of the first respondent/claimant.

2. Learned Counsel for the appellant/insurer would contend that the Tribunal is not justified in granting medical expenses in a sum of Rs. 75,000/- having regard to the admission made by the claimant in his evidence that it has been reimbursed from his employer. It is further argued that the Tribunal was not justified in awarding Rs. 53,400/- towards loss of future earning as there was no loss of future pay. The award of Rs. 10,000/- towards repair of motor cycle is not sustainable as per the IMV report. The compensation awarded towards pain and suffering and loss of amenities is excessive.

3. On the other hand, learned Counsel appearing for the respondent/claimant submits that the claimant was a Pigmy collector at Amanath Co-operative Bank. He is not paid any salary. He works on commission basis. The Bank has not provided medical reimbursement for Pigmy Collectors. Similarly having regard to the permanent disability sustained by him, the Tribunal has awarded Rs. 92,400/- towards loss of future earning capacity. The learned Counsel has sought to justify the impugned judgment and award.

4. I have carefully considered the arguments of the learned Counsel made at the Bar and perused the materials placed on record.

5. It has come in the evidence of P.W. 1 that he was working as a Pigmy collector. Therefore, his income is dependant on the collections made for and on behalf of the Bank. Materials are not produced to show that Amanath Co-operative Bank has the facility of medical reimbursement for the pigmy collectors. If the evidence of P.W. 1 is read in its entirety, it shows that there is no medical reimbursement facility in the Bank. The claimant has produced 35 original medical bills marked at Ex. P1 to Ex. P11. Since the original medical bills are produced before the Tribunal, question of reimbursement of medical expenses on the basis of these bills from the Bank does not arise. Therefore, the Tribunal has rightly awarded medical expenses.

6. It is the case of the claimant that he works on commission basis as a Pigmy collector. For the collection of pigmy, he has to travel a lot. On account of the permanent disability sustained by him, his earning capacity has been reduced. That is why the Tribunal has awarded Rs. 92,400/- towards loss of future earning capacity. The IMV report show that the motor cycle of the claimant has been damaged. Therefore, a sum of Rs. 10,000/- has been awarded by the Tribunal towards repair of the motor cycle. The award of compensation in a sum of Rs. 60,000/- towards pain and suffering is excessive. The claimant is entitled for a sum of Rs. 40,000/- under this head. He is entitled for Rs. 30,000/- towards loss of amenities as against the award of Rs. 40,000/- by the Tribunal under this head. The compensation awarded under all other heads is just and reasonable. Thus, the compensation awarded in a sum of Rs. 3,27,400/- has to be reduced by Rs. 30,000/-, which comes to Rs. 2,97,400/-. Therefore, I hold that the claimant is entitled for a sum of Rs. 2,97,400/- with interest at 6% per annum from the date of the petition till the date of deposit. To that extent, the appeal succeeds and is allowed in part. The judgment and award of the Tribunal relating to deposit/release of the amount stands unaltered. The amount in deposit shall be transferred to the Tribunal forthwith. No costs.

