

(2016) 04 KAR CK 0086
In the Karnataka High Court
Case No : MFA No. 30874 of 2011 (MV)

Nagappa

APPELLANT

Vs

Ranjit A. Patil

RESPONDENT

Date of Decision : 20-04-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 168

Citation : (2016) AAC 1963

Hon'ble Judges : Mrs. S. Sujatha, J.

Bench : Single Bench

Advocate : Sanganagouda V. Biradar, Advocate, for the Appellants; Nagaraj Patil Advocate for Mnvendra Reddy, Advocate, for the Respondents No. 2; Notice is dispensed with V/O Dated 06.08.2014, for the Respondents No. 1

Final Decision : Allowed

Judgement

Mrs. S. Sujatha, J.—;This appeal arises from the judgment and award passed by the Motor Accident Claims Tribunal, Bijapur, in MVC No. 1416/2007.

2. The Tribunal, after appreciating the evidence on record, has awarded the compensation of Rs. 1,08,200/-. Being dissatisfied, the claimant is before this Court.

3. Learned Counsel appearing for the Claimant assailing the judgment and award impugned herein, would contend that PW.2-doctor has assessed the permanent disability of the injured at 35-40% related to the left lower limb and 30-35% to the right lower limb as per doctor's manual. The Tribunal ignoring this evidence, assessed the permanent disability at 10% without any valid reasons.

4. It is further contended that the Tribunal has awarded a meager compensation under the different heads contrary to the evidence on record and the well established principles of law laid down by this Court and the Apex Court.

5. Per contra, learned Counsel for the second Respondent defend the judgment

and award passed by the Tribunal and contends that the Tribunal after appreciating the evidence on record, has awarded just and reasonable compensation which does not call for any interference by this Court.

6. Having heard the learned Counsel for the parties and perused the material on record, it is noticed that PW.2-doctor has deposed and assessed the permanent disability of the injured at 35-40% related to the left lower limb and 30-35% to the right lower limb. However, PW.2 has deposed that the claimant visited his private clinic for assessment of disability to the injuries sustained in the road traffic accident, he examined the claimant on 14-4-2010 at his private clinic and on examination, he found certain injuries and fractures as mentioned in his affidavit and disability is assessed accordingly. PW.2 in his cross-examination has deposed that after the accident he did not treat the patient and after three years of alleged accident, he examined only for the purpose of assessment of disabilities. Considering this version of the doctor coupled with Ex.P4-would certificate and the nature of injuries sustained by the claimant, the Tribunal assessed the permanent disability at 10% to the whole body which is justifiable in the circumstances of the case and cannot be found fault with.

7. However, the compensation awarded under the different heads, namely, loss of amenities and future discomforts, loss of earning during treatment and determination of the monthly income at Rs. 3,500/- deserves to be enhanced considering the nature of injuries sustained by the injured and determining monthly income at Rs. 4,000/- which is normally adopted by this Court in identical cases of the victim of a road traffic accident of the year 2007. Accordingly, the compensation awarded by the Tribunal is modified as under:

[a]

Towards pain and suffering

Rs. 25,000/-

[b]

Towards medical expenses and other incidental charges

Rs. 5,000/-

[c]

Towards loss of amenities and future discomfort

Rs. 25,000/-

[d]

Towards loss of earnings during treatment

Rs. 12,000/-

[e]

Towards loss of future earning due to disability [Rs. 48,000 x 16 x 10]

Rs. 76,800/-

Total

Rs. 1,43,800/-

8. Thus, the compensation awarded by the Tribunal is modified to Rs. 1,43,800/- as against Rs. 1,08,200/- awarded by the Tribunal. The award amount shall carry interest at 6% per annum from the date of the petition till the realisation. In the result, the appeal is allowed to the extent indicated above.