

(2010) 04 KAR CK 0246
In the Karnataka High Court
Case No : M.F.A. No. 11112 of 2008

Narasimhareddy

APPELLANT

Vs

The General Manager, Arvind Motors Pvt. Ltd. and The
Oriental Insurance Co. Ltd.

RESPONDENT

Date of Decision : 08-04-2010

Acts Referred:

Citation : (2010) 04 KAR CK 0246

Hon'ble Judges : B. Sreenivase Gowda, J

Bench : Single Bench

Advocate : Lokesh L.N., for Pramod, for the Appellant; Nanjundaradhya B.G., for R.1, Srishaila, for R.2, for the Respondent

Judgement

B. Sreenivase Gowda, J.—This appeal is by the claimant for enhancement of compensation awarded by the Tribunal.

2. The appeal is admitted and with the consent of the learned Counsel appearing for the parties, it is taken up for final disposal.

3. For the sake of convenience parties are referred to as they are referred to in the claim petition before the Tribunal.

4. Brief facts of the case are:

On 27-3-03 when the claimant was going in motor cycle bearing registration No. KA-16-K-636 from Chitradurga Rural Police Station to Ingaladal, for his duty on N.H. 4 road, near Nagarayana Shetty Petrol Bunk, a lorry bearing New Chassis No. MH-12-0807 came in a rash and negligent manner and dashed against his motor cycle. As a result, the claimant fell down and sustained injuries. He filed a claim petition before the Motor Accidents Claims Tribunal, Chickmagalur seeking compensation of Rs. 9,00,000/-. The Tribunal awarded him a compensation of Rs. 1,35,200/- with interest at 6% p.a. from the date of claim petition till realisation.

5. As there is no dispute regarding injuries sustained by the claimant in a motor road accident, and the liability of the Insurance Company, the only point that arises for my consideration is:

Whether the compensation awarded by the Tribunal is just and proper or it calls for enhancement?

6. The learned Counsel appearing for the claimant submits, considering the nature of injuries sustained by the claimant and duration of treatment undergone by him. the compensation awarded by the Tribunal is on the lower side and therefore he prays for allowing the appeal and enhancing the compensation.

7. Per contra, the learned Counsel appearing for the respondent - Insurance Co. submits, the compensation awarded by the Tribunal is just and reasonable and there is no scope for enhancement and he prays for dismissal of the appeal.

8. After hearing the learned Counsel appearing for the parties and perusing the judgment and award of the Tribunal, I am of the view that the compensation awarded by the Tribunal is not just and proper, it is on the lower side, and therefore it is required to be enhanced.

9. The claimant has sustained the following injuries:

- 1) Fracture of clavicle lateral right shoulder
- 2) Left sided intercondylar tibial fracture
- 3) Severe muscle contusion upper thigh left leg union left knee haemarthrosis.

Injuries sustained by the claimant are evident from the wound certificate -- Ex. P.6 and supported by the oral evidence of the claimant and the doctor who were examined as PWs 1 and 2 respectively. The claimant was treated as inpatient in Unity Health Centre, Chitradurga for a long time. P.W. 2, the doctor has stated that, he has suffered disability of 50% to the limb and 21% to the whole body.

10. Considering the nature of injuries and duration of treatment, Rs. 15,000/- awarded by the Tribunal towards pain and suffering is on the lower side and it is deserved to be enhanced by another Rs. 15,000/- and I award Rs. 30,000/- under this head.

11. Rs. 18,000/- awarded by the Tribunal towards medical expenses is based on the medical bills produced by the claimant for Rs. 17,800/- and hence, there is no scope for enhancement under this head.

12. Considering the nature of injuries and duration of treatment, Rs. 9,000/- awarded towards conveyance, nourishment and attendant charges is just and proper and it does not require enhancement.

13. Nature of injuries suggest that claimant must have been under treatment and rest for a period of three months and therefore, it is just and proper to award a sum of Rs. 10,500/- towards loss of income during laid up period.

14. Claimant after sustaining the aforesaid injuries has taken voluntary retirement. The Tribunal considering the nature of injuries and disability stated by the doctor and considering that the claimant could not do any work in future has awarded Rs. 88,200/- towards loss of future income. The same is just and proper.

15. Despite awarding future loss of income, claimant has to bear with certain amount of disability, inconvenience and discomfort in his future life. Therefore Rs. 5,000/- awarded towards loss of amenities is on the lower side and therefore, it is deserved to be enhanced by another Rs. 10,000/- and I award Rs. 15,000/ under this head.

16. Thus, the claimant is entitled for an additional compensation of Rs. 35,500/- with interest at 6% p.a. on the enhanced compensation from the date of claim petition till the date of realisation.

The Insurance Company is directed to deposit the compensation amount with interest within four weeks from the date of receipt of a copy of this order.

Out of the enhanced compensation 50% with proportionate interest is directed to be invested in Fixed Deposit in any nationalised or scheduled bank in the name of the claimant for a period of seven years. The remaining amount with proportionate interest is ordered to be released in favour of the claimant.

Accordingly the appeal is allowed in part and the judgment and award of the Tribunal is modified to the extent stated herein above. No order as to costs.