
(2010) 06 KAR CK 0044
In the Karnataka High Court
Case No : M.F.A. No. 6607 of 2008

Narayanamma

APPELLANT

Vs

Sainath B.R. and The Manager, United India Insurance Co.
Ltd.

RESPONDENT

Date of Decision : 15-06-2010

Acts Referred:

Citation : (2010) 06 KAR CK 0044

Hon'ble Judges : B. Sreenivase Gowda, J

Bench : Single Bench

Advocate : M.C. Uma Devamma, for the Appellant; K. Suresh, for R.2, for the Respondent

Final Decision : Allowed

Judgement

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

2. Heard. The appeal is admitted and with the consent of 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:

That on 01.10.2006 when the claimant was going on extreme left side of the road near Nataraj Talkies. Bangalore an auto bearing registration No. KA-04-A-126 came in a rash and negligent manner and dashed against her. as a result, she fell down and sustained grievous injuries. Hence she filed a claim petition before MACT, Bangalore seeking compensation of Rs. 8.00.000/-. The Tribunal by the impugned judgment and has awarded a compensation of Rs. 1.25.800/- with interest at 6% p.a.. Aggrieved by the quantum of compensation of compensation awarded by the Tribunal, the claimant is in appeal seeking enhancement.

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 remains for my consideration in the appeal is:

Whether the quantum of compensation awarded by the Tribunal is just and proper or does it call for enhancement?

6. Learned Counsel appearing for the claimant submits that the compensation awarded by the Tribunal is on the lower side and it is required to be enhanced and therefore he prays by allowing the appeal by enhancing the compensation.

7. Learned Counsel appearing for the Insurance Company fairly submits that the compensation awarded by the Tribunal is just and reasonable and there is no scope for enhancement and therefore he prays for dismissal of the appeal.

8. After hearing the learned Counsel for the parties and perusing the 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 deserved to be enhanced.

9. The claimant has sustained fracture of both bones of right arm and abrasion injury as evident from the wound certificate Ex. P 6, discharge summary Ex. P 7, OPD card Ex. P 8, case record Ex. P 9 and X ray Ex. P 10 and supported by oral evidence of the claimant and the doctor who were examined as PWs 1 and 2 respectively. She was treated as inpatient for 30 days in K.C. General Hospital, Bangalore. PW 2, the doctor who treated her has stated that she has suffered 40% disability to the limb and 20% to the whole body.

10. Considering the nature of injuries Rs. 25,000/- awarded by the Tribunal towards pain and suffering is on the lower side and it is deserved to be enhanced by another sum of Rs. 5,000/- and I award Rs. 30,000/- under this head.

11. The claimant has not produced medical bills. Considering the nature of injuries and duration of treatment the Tribunal has awarded Rs. 10,000/- towards medical and incidental expenses and the same is just and reasonable and it does not call for enhancement.

12. The claimant in support, of her contention that she was doing vegetable business has not adduced any evidence in that regard. In the absence of proof of income, the income of the claimant assessed by the Tribunal at Rs. 3,000/- is just and proper and Rs. 9,000/- awarded towards loss of income during laid up period is just and proper and it does not call for enhancement.

13. The Tribunal has awarded Rs. 10,000/- towards loss of amenities. Considering the disability stated by the doctor it is on the lower side and it is required to be enhanced by another sum of Rs. 5,000/- and I award Rs. 15,000/- under this head.

14. The Tribunal while awarding loss of future income has applied the multiplier of 15. As per the judgment of Apex Court in the case of Sarala Verma the proper

multiplier applicable to the age group of the claimant is 16. Accordingly future loss of income works out to Rs. 69,120/- (Rs. 3,000/- x 12% x 12 x 16) and it is awarded as against Rs. 64,800/- by the Tribunal towards loss of future income.

15. The Tribunal has awarded Rs. 7,000/- towards future medical expenses bases on the opinion of the doctor and it is just and reasonable and it does not call for enhancement.

16. Thus the claimant is entitled for the following compensation:

1) Pain and sufferings Rs. 30,000/- 2) Medical and incidental Expenses Rs. 15,000/- 4) Loss of income during Laid up period Rs. 9,000/- 5) Loss of amenities and Future unhappiness Rs. 15,000/- 6) loss of future income Rs. 69,120/- 7) future medical expenses Rs. 7,000/- Total Rs. 1,45,120/-

17. Thus the claimant is entitled for a total compensation of Rs. 1,45,120/- as against Rs. 1,25,800/- awarded by the Tribunal with interest at 6% p.a. on the enhanced compensation of Rs. 19,320/- from the date of claim petition till the date of realisation.

18. The insurance Company is directed to deposit the compensation amount with interest within two months from the date of receipt of a copy of this order and the same is ordered to be released in her favour.

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