
(2014) 01 KAR CK 0052
In the Karnataka High Court
Case No : MFA No. 4406 of 2008 (MV)

National Insurance Co. Ltd.	Vs	APPELLANT
A. Laxman and N. Hanumantha		RESPONDENT

Date of Decision : 16-01-2014

Acts Referred:

Citation : (2014) 01 KAR CK 0052

Hon'ble Judges : A.S. Pachhapure, J

Bench : Single Bench

Advocate : Sanjay M. Joshi, Advocate for the Appellant

Final Decision : Dismissed

Judgement

A.S. Pachhapure, J.—The appellant has challenged the judgment and award of the Tribunal granting compensation to the 1st respondent for the injuries sustained in a motor vehicle accident.

2. The respondent No. 1 herein was proceeding on the motorcycle and at that time motorcycle bearing registration No. K.A. 36/Q-6467 ridden in a rash and negligent manner came from hind side and hit the claimant who was also on his motorcycle bearing registration No. A.P. 22/G-8508. The claimant sustained severe injuries. Hence he was admitted for treatment in the hospital. Later he approached the Tribunal for grant of compensation on different heads.

3. After recording the evidence, the Tribunal has granted compensation of Rs. 66,400/- with interest at 6% per annum. The appellant-insurer was directed to indemnify the owner of the motorcycle. Hence, aggrieved by the judgment and award, the present appeal is filed by the insurer.

4. I have heard the learned counsel for the appellant. Respondents though served absent.

5. The learned counsel for the appellant would contend that the rider of the motorcycle had no driving licence and the quantum of compensation awarded is

on the higher side. Hence he would submit that the award of compensation and imposing liability on the Insurance Company is erroneous and illegal. He would also submit that there was no negligence on the part of the rider of the motorcycle in question.

6. Perusal of the First Information Report produced at Ex. P-1 and the evidence of PW 1 would reveal that the claimant was proceeding on the motorcycle bearing registration No. A.P. 22/G-8508 and at that time the rider of the motorcycle bearing registration No. K.A. 36/Q-6467 came from the hind side in rash and negligent and hit the motorcycle. The complaint was against the rider of the motorcycle bearing registration No. K.A. 36/Q-6467 and so also the charge-sheet. Scrutiny of the evidence made available would clearly indicate that accident was due to rash and negligent riding of motorcycle bearing registration No. K.A. 36/Q-6467.

7. Though it is contended that the rider of the motorcycle had no driving licence, no material is placed by the Insurance Company to prove that the rider did not hold a licence. As could be seen from the evidence of PW 1 the claimant had produced the driving licence of the 1st respondent and the Xerox copy after verification of original is marked as Ex. P-11. This document itself is sufficient to hold that the rider had a licence to drive a motorcycle.

8. So far as the quantum of compensation is concerned, the injury certificate produced by the claimant at Ex. P-6 would reveal that claimant had suffered fracture of zygomatic bone and infra orbital fracture. In view of these fractures, the Tribunal has granted a sum of Rs. 42,000/- for the injuries, Rs. 14,799.03ps towards medical expenses and a sum of Rs. 3,000/- towards pain, suffering and mental agony. Towards loss of earnings Rs. 6,000/- has been granted and towards food and nourishment an amount of Rs. 600/- was awarded. Looking to the quantum on each of the heads aforesaid reveals no grounds to interfere with the award of compensation.

9. Consequently, I do not find any merit in this appeal. Hence it is accordingly dismissed.