

(2011) 03 KAR CK 0292
In the Karnataka High Court
Case No : M.F.A. No. 2005 of 2009

Ramachandra B.

APPELLANT

Vs

Shri. Raju and The New India Assurance Co. Ltd.

RESPONDENT

Date of Decision : 04-03-2011

Acts Referred:

Citation : (2011) 03 KAR CK 0292

Hon'ble Judges : H.S. Kempanna, J

Bench : Single Bench

Advocate : T.V. Nanje Gowda and K. Vishwanatha, for the Appellant; M. Narayanappa, for R-2, for the Respondent

Judgement

H.S. Kempanna, J.—Though this matter is listed for admission, with consent of learned Counsels for respective parties as records have also been received, it is taken up for final disposal.

2. This is claimant's appeal seeking for enhancement of compensation in respect of the injuries which he has sustained in a motor accident.

3. The Tribunal by its impugned judgment and award has awarded total compensation of Rs. 3,02,000/- with interest at 6% p.a. from the date of the petition till realisation in respect of the fracture of both bones of left leg i.e. tibia and fibula and taking into account the medical and other incidental expenses incurred by the claimant.

4. The learned Counsel for the Appellant-claimant submitted that the Tribunal has not awarded commensurate compensation towards medical expenses and attendant charges. Hence, a case for enhancement is made out.

5. Per contra, the learned Counsel appearing for the contesting insurer fairly conceded and submitted that having regard to the material on record, a further sum of Rs. 10,000/- be awarded towards future medical expenses and attendant charges.

6. The Tribunal taking into account the nature of fracture that the claimant has sustained in the accident, the treatment that he has taken, the amount that he has spent for taking treatment, the period for which he was in the hospital and the follow-up treatment that he has undergone, has rightly awarded compensation under of other heads except future medical expenses and in not awarding any compensation towards attendant charges. As rightly submitted by the counsel for the insurer the claimant should be awarded a further sum of Rs. 5,000/- towards future medical expenses in addition to Rs. 15,000/- awarded by the tribunal and further a sum of Rs. 5,000/- towards attendant charges which has not been awarded to in the case, Thus, the claimant is an titled to an additional compensation of Rs. 10,000/- with interest at 6% p.a. from the date of the petition till realisation over and above the compensation that has been awarded by the Tribunal. Accordingly, the appeal has to succeed in part.

7. In the result, for the foregoing reasons, I proceed to pass the following:

ORDER

- i) The appeal is allowed in part;
- ii) The impugned judgment and award of the Tribunal is modified and the Appellant is awarded a total compensation of Rs. 3,12,000/- with interest at 6% p.a. from the date of the petition till realisation as against Rs. 3,02,000/- with interest at 6% p.a. from the date of the petition till realisation awarded by the Tribunal. The enhanced compensation comes to Rs. 10,000/- which carries interest, at 6% p.a. from the date of the petition till realisation.
- iii) The second Respondent-insurer shall deposit the entire enhanced compensation with interest before the Tribunal within four weeks from the date of receipt of the copy of the judgment and award;
- iv) The entire compensation with interest is ordered to be released in favour of the Appellant.

Office to draw the award accordingly.