

(2013) 09 KAR CK 0247
In the Karnataka High Court
Case No : M.F.A.No. 8596 of 2012 (MV)

Ramesh. H. Naik

APPELLANT

Vs

Mohammed Aouf and United India Insurance Co. Ltd.

RESPONDENT

Date of Decision : 27-09-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2013) 09 KAR CK 0247

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : Ramachandra Shenoy for Mr. H. Pavana Chandra Shetty, for the Appellant;

Final Decision : Dismissed

Judgement

N.K. Patil, J.—This appeal by the claimant is directed against the common judgment and award dated 7th August 2012, passed in MVC No. 69/2011, by the Presiding Officer, Fast Track Court, Motor Accident Claims Tribunal, Kundapura, (for short, "Tribunal"), for enhancement of compensation on the ground that, the compensation of Rs. 46,000/- with interest @ 6% p.a. awarded in favour of the claimant as against his claim for Rs. 1,55,000/-, is inadequate. The appellant claims to be aged about 27 years and hale and healthy prior to the date of accident. That the occurrence of accident at about 14:45 hours, on 23-11-2010, when the appellant was riding his Motor Cycle bearing Registration No. KA-47/H-1244, from S. Circle towards Noorpalli on NH-17, on account of rash and negligent riding by the rider of another Motor cycle bearing Registration No. KA-47/J-0474, is not in dispute. It is also not in dispute that the appellant has sustained grievous injuries. Due to the injuries sustained in the accident, he was shifted to Government Hospital, Bhatkal and Chinmayi Hospital, Bhatkal.

2. It is his further case that, on account of the accident, he sustained injuries stated above for the treatment of the said injuries, he has spent reasonable amount towards conveyance, nourishing food and attendant charges including

medical expenses and other incidental expenses and therefore, he has to be compensated reasonably.

3. On account of the injuries sustained in the accident, the appellant filed the claim petition u/s 166 of the Motor Vehicles Act, before the Tribunal, seeking compensation of a sum of Rs. 1,55,000/- against the insurer and another. The said claim petition had come up for consideration before the Tribunal on 7th August, 2012. The Tribunal after considering the relevant material available on file and after appreciation of the oral and documentary evidence, allowed the claim petition, in part, awarding a sum of Rs. 46,000/-, with interest at 6% per annum from the date of petition till the date of realization. Being dissatisfied with the quantum of compensation awarded by the Tribunal, the appellant has filed the appeal before this Court, seeking enhancement of compensation.

4. I have gone through the grounds urged in the memorandum of appeal and the impugned judgment and award passed by Tribunal and heard the learned counsel appearing for the appellant.

5. Learned counsel appearing for appellant submits that, the compensation awarded by Tribunal is very meager when compared to the nature of injuries sustained and the permanent whole body physical disability is concerned. To substantiate the same, he submitted that the appellant has sustained injuries to his head and immediately he was shifted to Chinmayi Hospital, Kundapura, where he took treatment both as in-patient and out-patient and that the Doctor has opined that the appellant has sustained permanent physical disability of 8%, which he has to pull on for the rest of his life. Therefore, reasonable enhancement may be made under all the heads and the impugned judgment and award may be modified accordingly.

6. After perusal of the impugned judgment and award passed by Tribunal and after hearing the learned counsel for appellant, it reveals that the Tribunal has after assessing the oral evidence of PW 1 and documentary evidence at Exs. P1 to P10, has awarded compensation of Rs. 46,000/- with 6% interest per annum, after recording a finding of fact at paragraphs 11 to 16 of its judgment. It can be seen that the appellant has sustained injuries to his head and was in patient in the Hospital for a period of four days and also took follow-up treatment for a period of five months. The Doctor has assessed the disability at 8%. Therefore, considering the nature of injuries sustained, age, avocation and the facts and circumstances of the case, coupled with the disability and the nature and duration of treatment undergone, I am of the view that the quantum of compensation awarded by Tribunal is just and proper and is after critical evaluation of the oral and documentary evidence available on file. Hence, it does not call for interference. For the foregoing reasons, the appeal filed by the claimant is liable to be dismissed as devoid of merits. Accordingly, it is dismissed.

Office to draw award, accordingly.