(2013) 12 KAR CK 0447

In the Karnataka High Court

Case No : M.F.A. No. 6462 of 2011 (MV)

Ravi Kumar APPELLANT

Vs

Waheed Ur Rahaman and The Branch Manager ICICI Lombard General Insurance RESPONDENT

Date of Decision : 03-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0447

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : K. Vishwanatha Poojary, for the Appellant; B. Pradeep, Advocate for R2, for the Respondent

Final Decision : Partly Allowed

Judgement

S. Abdul Nazeer, J.—This appeal by the claimant is directed against the judgment and award in MVC No. 1046/2008 dated 22.02.2011 on the file of the Addl. Senior Civil Judge and MACT, Puttur, Dakshina Kannada, whereby the Court below has awarded total compensation of Rs. 1,07,060/- with interest at 6% per annum from the date of petition till the date of deposit. Learned counsel for the claimant/appellant submits that the accident had occurred on 22.05.2007. The claimant was aged about 24 years at the time of accident. He was working as a driver and was earning more than Rs. 9,000/- per month. The Court below has taken his income at Rs. 4,000/- for the purpose of computation of loss of future earning capacity. It has applied multiplier 17 instated of 18. He was hospitalized for 12 days. The Court below has not awarded any compensation towards loss of income during the treatment period and loss of amenities. The compensation awarded under other heads is on the lower side.

2. On the other hand, learned counsel appearing for the respondent-insurance company has sought to justify the impugned judgment and award.

3. I have carefully considered the arguments of the learned counsel made at the

Bar and perused the materials placed on record.

4. As stated above, the accident had occurred on 22.05.2007. The claimant was aged 24 years at the time of accident. It is also clear that he was working as a driver during the relevant point of time. Though, the claimant contends that he was earning Rs. 9,000/- per month, he has not established the same by producing evidence. I am of the view that it is just and proper to notionally fix his income at Rs. 4,500/- per month. According to the Doctor, the claimant had sustained 18% disability to the right lower limb. The Court below has rightly assessed the whole body disability at 6%. Since he was aged 25 years, multiplier applicable to the case is 18. By taking his income at Rs. 4,500/- per month, with the application of multiplier 18 and 6% permanent disability to the whole body, the compensation payable towards loss of future earning capacity comes to Rs. 58,320/-

5. The award of compensation towards pain and suffering is just and reasonable. The claimant was hospitalized for 12 days. He had sustained fracture of Tibia. I am of the view that a sum of Rs. 20,000/- has to be awarded towards loss of amenities. Medical expenses awarded in a sum of Rs. 28,700/- is just and reasonable. A sum of Rs. 10,000/- is awarded towards conveyance, nourishment and attendant charges etc., He is entitled for a sum of Rs. 13,500/- (3 months earning) towards loss of income during the laid up period.

6. Thus, the compensation payable to the claimant is reassessed as under:

7. The Court below has awarded total compensation of Rs. 1,07,060/- which has to be deducted from the aforesaid sum and the balance compensation payable to the claimant is Rs. 48,460/-.

8. In the result, the appeal succeeds and it is accordingly allowed in part. The respondent-insurance company is directed to deposit a sum of Rs. 48,460/- with interest at 6% per annum from the date of petition till the date of deposit within a period of six weeks from the date of receipt of copy of this order. The claimant is permitted to withdraw the said amount on its deposit. Sri. B. Pradeep, learned counsel for respondent No. 2 is permitted to file vakalath on behalf of respondent No. 2 within two weeks from the date of receipt of copy of this order. No costs.