
(2012) 06 KAR CK 0080
In the Karnataka High Court
Case No : M.F.A. No. 9702 of 2010 (MV)

Reliance General Insurance Company Limited

APPELLANT

Vs

T.C. Sandeep

RESPONDENT

Date of Decision : 01-06-2012

Acts Referred:

Motor Vehicles Act, 1939 — Section 166

Citation : (2012) 06 KAR CK 0080

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

Bench : Single Bench

Advocate : R. Raghu, for Mr. H.S. Lingaraj, for the Appellant;

Final Decision : Dismissed

Judgement

N.K. Patil

1. This appeal by the insurer is directed against the judgment and award dated 21st July 2010 passed in MVC No. 134/2009 by the Senior Civil Judge and Motor Accident Claims Tribunal, Tarikere, (for short, "Tribunal") for enhancement of compensation on the ground that, the compensation of Rs. 3,75,455/- with interest 6% p.a. awarded in favour of the claimant as against his claim for 30,00,000-, is inadequate. The facts in brief are that, the first respondent/ injured claimant had filed the claim petition u/s 166 of the Motor Vehicles Act, contending that at about 12:15 P.M, on 02-04-2009, he met with an accident, when he was travelling on apache RTR TVS Motor cycle along with his friend as pillion rider from his College on the left side of the road, on account of rash and negligent driving by the driver of Tempo bearing Registration No. KA-03/C-922. On account of the accident, he sustained grievous injuries on the right fore-head and right humerus. Due to the injuries sustained, he was immediately shifted to Baptist Hospital at Bangalore for treatment and then to M.S. Ramaiah Memorial Hospital at Bangalore. Thereafter, he was admitted as in patient from 02-04-2009 to 22-04- 2009, and underwent three operations and also radial nerve repair and later tender transfer was done and discharged on 22-04-2009

and advised to take treatment as ou-patient till the wound healed.

2. On account of the injuries sustained in the accident, the first respondent/ claimant filed the claim petition before the Tribunal, seeking compensation of a sum of Rs. 30.00 lakhs against the appellant and the owner of the offending vehicle. The said claim petition had come up for consideration before the Tribunal on 21st July, 2010. 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. 3,75,455/- under different heads, with 6% interest per annum, from the date of petition till the date of deposit and directed the appellant Insurer to satisfy the award. Being aggrieved by the quantum of compensation awarded by Tribunal, the Insurer is in appeal before this Court, seeking to modify the impugned judgment and award passed by Tribunal by reducing the compensation.

3. Learned counsel appearing for appellant submits that the Tribunal is not justified in awarding the compensation towards loss of future income on account of disability, when there is not future loss of income at all. Therefore, he submits that the impugned judgment and award passed by Tribunal is liable to be modified by reducing the 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/insurer. The first respondent is served and unrepresented.

5. After perusal of the impugned judgment and award passed by Tribunal and the original records placed before me, the only question that arise for my consideration in this appeal is as to:

Whether the compensation awarded by Tribunal is just and reasonable?

The occurrence of accident and the resultant injuries sustained by the claimant are not in dispute. After perusal of the impugned judgment and award, I am of the view that the compensation awarded by Tribunal under all the heads is just and proper and there is no error or material illegality as such committed by the Tribunal in awarding the compensation. Admittedly, the claimant has sustained cut-lacerated wound over right side of fore-head, open injury about 15-20 cms. length over right arm from medial to lateral aspect, muscles and tendon are torn fracture of right humerus. The Doctor has opined that all the three injuries are grievous in nature. Further, the claimant has sustained permanent disability of 30% of radial nerve. Therefore, the Tribunal, after assessing the oral and documentary evidence available on file, has awarded just and reasonable compensation of Rs. 3,75,455/- for the injuries sustained by the claimant.

6. After going through the impugned judgment and award and after re-appreciation of the oral and documentary evidence available on file, I am of the view that the compensation awarded by Tribunal is just and reasonable, for the

reason that, in fact, the monthly income of 25,000/- assessed by Tribunal is, in fact, on the lower side. Because the accident has occurred during the year 2009 and the injured claimant is working as a Software Engineer in the computer Science Corporation, Chennai and getting salary of Rs. 15,000/- per month. Further, it is to be noted that because of the injuries sustained in the accident, the claimant could not write the examination on his own, on the other hand, had to take help of the scribe and some how completed the examination. Therefore, having regard to the facts and circumstances of the case, as stated above, I do not find any justification or good ground as such to interfere in the well considered and well founded judgment passed by Tribunal. For the foregoing reasons, the appeal filed by Insurer is liable to be dismissed as devoid of merits. Accordingly, it is dismissed.

Office is directed to transmit the amount in deposit to the jurisdictional Tribunal, forthwith.

Office to draw the award, accordingly.