

(2013) 09 KAR CK 0071
In the Karnataka High Court
Case No : M.F.A. No. 7003 of 2013 (MV)

Shanmugam

APPELLANT

Vs

Ashok S. and The Branch Manager, Branch Office, Reliance
General Insurance Company Limited

RESPONDENT

Date of Decision : 16-09-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2013) 09 KAR CK 0071

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

Bench : Single Bench

Advocate : Patel D. Karegowda, for the Appellant;

Final Decision : Dismissed

Judgement

N.K. Patil, J.—This appeal by the claimant 13 directed against the judgment and award dated 29th May 2013, passed in MVC No. 138/2012, by the Senior Civil Judge, Member, Additional Motor Accident Claims Tribunal, Hiriya, (for short, "Tribunal") for enhancement of compensation on the ground that, the compensation of Rs. 41,337/- with interest @ 6% p.a. awarded in favour of the claimant as against his claim for Rs. 4,30,000/-, 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 2:15 A.M., on 03-10-2011, when the appellant was travelling in the Motor Cycle bearing Registration No. KA-16/R-5151, as a pillion rider on NH-4 bypass, to his house in front of Surya Hotel on Main Road, Hiriya Town, due to rash and negligent driving by the driver of the said Motor cycle, is not in dispute. It is also not in dispute that the appellant has sustained bleeding injuries. Due to the injuries sustained in the accident, he was shifted to Hiriya Government Hospital, where he took first aid and on the advise of the Doctor, he was shifted to District Hospital, Chitradurga, where he took treatment both as in-patient and also out-patient.

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. 4,30,000/- against the Insurance Company and another. The said claim petition had come up for consideration before the Tribunal on 29th May, 2013. 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. 41,337/- under different heads, 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. Shri. Patel D. Karegowda, learned counsel appearing for appellant submits that the Tribunal erred in not awarding compensation towards loss of income during treatment period and loss of amenities, discomfort and unhappiness and that the compensation awarded towards injury, pain and sufferings, is liable to be enhanced. To substantiate the said submission, he has taken me through the wound Certificate at Ex. P4 and as per the said Certificate, the appellant has sustained lacerated wound over scalp 30 cm x 2 cms. Bone deep present, bleeding from nose present and left front temporal fracture and also took treatment from 03-10-2011 to 5-10-2011 and also follow up treatment. But, the Tribunal has not awarded any compensation towards loss of income during treatment period and loss of amenities discomfort and unhappiness. Therefore, he submitted that the impugned judgment and award passed by Tribunal is liable to be modified, by awarding reasonable compensation.

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 P32 and Ex. R1, has awarded compensation of Rs. 41,337/- with interest at 6%. Admittedly the claimant has sustained bleeding injuries and as per the Wound Certificate, he has sustained lacerated wound over scalp 30 cm x 2 cm bone deep present, bleeding from nose present and left fronto temporal fracture. He has taken treatment only for three days. Further, it is seen that as per Ex. P6 to P32, the appellant has sustained only one grievous injury and the Tribunal has awarded a sum of Rs. 25,000/- towards injury, pain and sufferings. In fact, the same is on the higher side as the appellant has sustained two simple injuries and one grievous injury. But, having regard to other facts and circumstances of the

same, the same is just and proper and accepted. Further, it can be seen that there is no disability nor there is loss of amenities, discomfort or unhappiness. He has taken treatment in various Hospitals for three days and the Tribunal has awarded a sum of Rs. 5,000/- towards attendant charges and Rs. 5,000/- towards travelling expenses. The same is just and reasonable and having regard to the age, avocation and the nature of injuries sustained and nature and duration of treatment undergone by appellant. Therefore, having regard to totality of the case on hand, I am of the view that the quantum of compensation awarded by Tribunal is just and proper and 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.