
(2015) 07 KAR CK 0035

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 200274 of 2014 (MV)

Shivanand

APPELLANT

Vs

Shabir Ahamed and Others

RESPONDENT

Date of Decision : 14-07-2015

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2015) 4 AKR 387

Hon'ble Judges : P.D. Waingankar, J.

Bench : Single Bench

Advocate : Sanganabasava B. Patil, for the Appellant; S.S. Aspilli, for the Respondent

Final Decision : Partly Allowed

Judgement

P.D. Waingankar, J.—This appeal by the claimant is for enhancement of compensation awarded in MVC No. 52/2012 by judgment and award dated 21.02.2013 on the file of Motor Accident Claims Tribunal and Fast Track Court-I/II, Bijapur. The appellant-claimant sustained a fracture of colles" in a motor vehicle accident that occurred on 12.11.2011. He was treated in a Government Hospital, Bijapur. He lost his income during the period of treatment and despite best treatment, he suffered disability. He filed a claim petition under Section 166 of the MV Act claiming compensation from the owner and insurer of the offending auto rickshaw.

2. The claim petition was opposed by the Insurance Company. It came up for consideration before the Tribunal. The Tribunal on appreciation of evidence awarded a total compensation of Rs. 80,000/- together with interest at 6% thereon. Dissatisfied with the quantum of compensation, this appeal is preferred.

3. I have heard both the learned counsel for the appellant-claimant and the respondent - Insurance Company. Perused the records.

4. The wound certificate Ex. P-6 discloses that the claimant sustained fracture of

colles" bone for which the Tribunal awarded a sum of Rs. 10,000/- under the head pain and suffering. Having regard to the nature of injuries and that the accident is of the year 2011, an amount of Rs. 10,000/- awarded by the Tribunal under the head pain and suffering is a meagre amount. The ends of justice will be met if an amount of Rs. 20,000/- is awarded towards pain and suffering as against Rs. 10,000/- awarded by the Tribunal. The amount awarded by the Tribunal under the head medical expenses seems to be reasonable. It is based on the medical bills produced by the claimant. No interference is called for.

5. So far as me loss of earning during the period of treatment, attendant charges and special diet are concerned, the Tribunal has awarded a sum of Rs. 5,000/-. Though the claimant has stated that he was an electrician, no evidence is forthcoming to substantiate the same. As such, I am inclined to treat him as a labour and take his income as Rs. 6,000/- per month. On account of the accidental injuries he must have been incapacitated from attending to his work for a minimum period of two months and thereby he lost his income. So an amount of Rs. 12,000/- is awarded under the head loss of earning during period of treatment as against Rs. 5,000/- awarded by the Tribunal. The amount awarded by the Tribunal towards loss of future amenities is also on the lower side. It would be in the interest of justice to award a sum of Rs. 15,000/- towards loss of future amenities as against Rs. 5,000/- awarded by the Tribunal. The Tribunal by taking the permanent disability of the whole body as 7% and income at Rs. 4,000/- per month has determined the compensation under the head loss of future earnings amounting to Rs. 57,120/-. Since I have taken the income at the rate of Rs. 6,000/- per month, the loss of future income on account of disability comes to Rs. 85,680/- as against Rs. 57,120/- awarded by the Tribunal. Thus, the claimant is entitled for compensation under various heads as under.

Thus, the claimant is entitled for a total compensation of Rs. 1,35,680/- as against Rs. 80,000/- awarded by the Tribunal. There shall be enhancement of compensation of Rs. 55,680/-. Accordingly, I pass the following:

"ORDER

The appeal is partly allowed. The judgment and award dated 21.02.2013 passed in MVC No. 52/2012 on the file of the Motor Accident Claims Tribunal and Fast Track Court-I/H, Bijapur stands modified. The appellant-claimant has been awarded an enhanced compensation of Rs. 55,680/- over and above the compensation awarded by the Tribunal together with 6% interest thereon from the date of petition till the date of realisation.

The Insurance Company is directed to deposit the enhanced compensation amount together with interest within a period of two months from the date of receipt of the copy of the order.

In the event of deposit, the entire compensation amount shall be released to the appellant."