

(2012) 08 KAR CK 0038

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 1389 of 2012 (MV)

Shivaraj

APPELLANT

Vs

The United India Insurance Co. Ltd. and K. Shodan Kumar

RESPONDENT

Date of Decision : 13-08-2012

Acts Referred:

Citation : (2012) 08 KAR CK 0038

Hon'ble Judges : Huluvadi G. Ramesh, J

Bench : Single Bench

Advocate : Girish B. Baladare, for the Appellant; Jwala Kumar, for R1, for the Respondent

Final Decision : Allowed

Judgement

Huluvadi G. Ramesh

1. This appeal is by the claimant, seeking enhancement of compensation, as against the award passed by the Fast Track Court No. I and Addl. MACT, Hassan in MVC No. 615/2011. On 28.2.2011 around 8.30 in the morning, when the claimant was going to Dharmasthala along with his friend as a pillion rider on a motorcycle bearing No. KA13 Q 2338, near Shiradi gate road on NH 48, a lorry bearing No. KA53 1292 came from opposite direction in a negligent manner and dashed against the motorcycle due to which, he sustained grievous injuries. He was treated at Government Hospital, Hassan and later at CSI Memorial Hospital, Hassan. The Tribunal, having held that accident was due to the negligence of the driver of the lorry in question, has awarded a total compensation of Rs. 1,08,000/- on the following heads:

Pain, injuries and sufferings

Rs. 15,000/-

Medical expenses

Rs. 20,000/-

Loss of future earning

Rs. 65,000/-

Conveyance and nourishment

Rs. 4,000/-

Loss of earning during laid up period

Rs. 2,000/-

Medical attendant

Rs. 2,000/-

Being not satisfied, this appeal is filed.

2. Heard. Claimant has sustained fracture of the right humerus and there is said to be restricted movement of the right shoulder. The disability is assessed at 35% to the right upper limb. Claimant was aged about 30 years as on the date of accident and was an agriculturist earning Rs. 10,000/- per month. Having regard to the nature of injury sustained, claimant could be awarded another Rs. 10,000/- on the head pain and suffering; another Rs. 20,000/- on the head loss of amenities and enjoyment in life another Rs. 10,000/- on incidental expenses and loss of earning during laid up period; another Rs. 5,000/- towards medical expenses and another Rs. 10,000/- towards loss of future earning. Thus, claimant would be entitled for Rs.55,000/- over and above what has been awarded by the Tribunal with 6% interest from the date of petition till deposit. Insurer to deposit the amount in three months.

Appeal is allowed in part.

Sri. Jwala Kumar, Learned Counsel, is permitted to file his vakalath within four weeks from today.