

(2017) 06 KAR CK 0114
In the Karnataka High Court
Case No : 3807 of 2012

SMT JAYAMMA

APPELLANT

Vs

SRI VENKATAPPA & ANR.

RESPONDENT

Date of Decision : 20-06-2017

Acts Referred:

Citation : (2017) 06 KAR CK 0114

Hon'ble Judges : B.Manohar

Bench : SINGLE BENCH

Advocate : S.RAJU, S.T.RAJASHEKHARA

Judgement

1. Appellant is the claimant, being not satisfied with the quantum of compensation awarded in the judgment and award dated 31st December 2011 in MVC No.321/2009 passed by the Additional Motor Accident Claims Tribunal, Ramanagara (hereinafter referred to as "the Tribunal" for short) filed this appeal seeking enhancement of compensation.

2. The appellant filed a claim petition contending that on 15-01-2009 while she was proceeding in the motorcycle bearing Registration No.KA-42/H-1528 as a pillion rider from Padarahalli to Ramanagara near Padarahalli gate, the driver of a tempo bearing Registration No.KA-13/2912 which was going ahead negligently took the vehicle to left turn without any indicator. Due to that the motorcycle dashed against the tempo and the claimant fell down and sustained grievous injuries all over the body. Immediately after the accident, she was shifted to Government Hospital, Ramanagara, thereafter she was shifted to Sanjay Gandhi Hospital at Bangalore. She claims that she has spent Rs.50,000/- towards medical expenditure. Prior to the accident, she was working as an agriculturist and also doing dairy farming and earning Rs.5,000/- p.m. In view of the injuries sustained, she has become permanently disabled to do the work which she was doing prior to the accident. Hence sought for compensation of Rs.6,00,000/-.

3. The insurance company defended the case by filing the written statement.

4. After trial, the Tribunal held that the accident occurred due to the actionable negligence on the part of driver of the offending tempo, the claimant has sustained injuries and hence she is entitled for compensation. With regard to quantum of compensation is concerned, in the accident the claimant has sustained fracture of both the bones of right leg, compound fracture of left ulna, fracture of left clavicle and she has suffered restricted movements of her forearm and wrist. The doctor who treated the claimant assessed the disability to an extent of 19% to the whole body. The Tribunal reckoning the income of the claimant as Rs.3,000/- p.m., applying the multiplier 7 since she was aged about 68 years at the time of accident and considering the disability to an extent of 19% as assessed by the doctor awarded compensation in a sum of Rs.1,33,880/- with interest at the rate of 6% p.a. Being not satisfied with the quantum of compensation, the claimant has preferred this appeal.

5. I have carefully considered the arguments addressed by Sri.S.Raju, learned counsel appearing for the appellant and Sri.S.T.Rajasehkar, learned counsel appearing for the second respondent. Perused the judgment and award, oral and documentary evidence adduced by the parties.

6. The dispute in this appeal is with regard to quantum of compensation.

7. In the road traffic accident occurred on 15-01-2009, the claimant has sustained three fractures and also injury to forearm and wrist. Initially she took treatment in the Government Hospital at Ramanagara and thereafter she took treatment in Sanjay Gandhi Hospital at Bangalore. At the time of accident, she was aged about 68 years. Apart from doing agricultural work, she was also doing dairy forming and supplying 5 liters of milk daily to the Milk Society. Though the claimant claims that she was earning a sum of Rs.5,000/- p.m., the Tribunal without assigning any reasons has reckoned the income as Rs.3,000/- p.m., which is on the lower side. The accident is of the year 2009. Even the daily wage employees working in various Government Departments and agricultural labourers would earn more than Rs.5,000/- p.m. Hence, taking the income of the claimant as Rs.5,000/ p.m., considering the disability to an extent of 19% as assessed by the doctor, applying the multiplier 5, as she was aged about 68 years as on the date of accident, the claimant is entitled to a sum of Rs.57,000/- towards future loss of income as against Rs.47,880/- awarded by the Tribunal. A sum of Rs.30,000/- awarded towards pain and suffering is on the lower side. She was inpatient for a period of 15 days and thereafter she has taken follow up treatment for a period of three months. She has sustained three fractures and injury to forearm and wrist. Taking into consideration the injuries sustained and suffering undergone by the claimant, it is appropriate to award another sum of Rs.20,000/- towards pain and suffering in addition to Rs.30,000/- awarded by the Tribunal. A sum of Rs.6,000/- awarded towards loss of income during the laid up period taking the income as Rs.3,000/- p.m., is also lower side. The claimant was out of employment for a period of 3 months. Hence she is entitled to another sum of Rs.9,000/- towards loss of income during the laid up period. Further, the

claimant was inpatient for a period of 15 days, hence she is entitled to a sum of Rs.6,000/- towards attendant food and nourishment. Further, the claimant has to lead her remaining life with 19% disability. At the fag end of her life, she has sustained three fractures, a sum of Rs.10,000/- awarded towards loss of amenities of life is on the lower side. Hence she is entitled to another sum of Rs.30,000/- under the said head. In all, the claimant is entitled to enhanced co of Rs.74,120/- which is rounded off to Rs.75,000/- in addition to Rs.1,33,800/- awarded by the Tribunal with interest at the rate of 6% p.a. Accordingly, I pass the following: ORDER The appeal is allowed in part. The judgment and award dated 31-12-2011 made in MVC No.321/2009 by the Motor Accident Claims Tribunal, Ramanagara is modified. The claimant is entitled to enhanced compensation of Rs.75,000/- in addition to Rs.1,33,880/- with interest at the rate of 6% p.a.