
(2013) 08 KAR CK 0194
In the Karnataka High Court
Case No : M.F.A. No. 7997 of 2009 (MVC)

Sri Abdul Wajid

APPELLANT

Vs

R. Pratap Kumar Reddy and The Oriental Insurance Co. Ltd.

RESPONDENT

Date of Decision : 07-08-2013

Acts Referred:

Citation : (2013) 08 KAR CK 0194

Hon'ble Judges : B. Sreenivase Gowda, J

Bench : Single Bench

Advocate : N. Srinivas, for the Appellant; C.R. Ravishankar, for R2, for the Respondent

Judgement

B. Sreenivase Gowda, J.—This appeal is by the claimant seeking enhancement of compensation awarded by the Tribunal. Heard, the appeal is admitted and with the consent of learned counsel appearing for parties, it is taken up for final disposal

2. For the sake of convenience, the parties are referred to as they are referred to in the claim petition before the Tribunal.

3. As there is no dispute regarding injuries sustained by the claimant in a road traffic accident occurred on 22.8.2006 due to rash and negligent driving of the offending Toyota Corola bearing registration No. KA-03-MG-6688 by its driver and liability of the insurer of the offending vehicle, the only point that arises for my consideration in the appeal is:

Whether quantum of compensation awarded by the Tribunal is just and reasonable or does it call for enhancement?

4. After hearing the learned counsel appearing for parties and perusing the judgment and award of the Tribunal, I am of the view that the compensation awarded by the Tribunal is not just and reasonable, it is on the lower side and hence it is required to be enhanced.

5. As per wound certificate Ex. P-5, the claimant has sustained following injuries:--

- a) Deformed lower part of right leg with swelling
- b) Lacerated wound 1 cm x 1/2 cm over chin bleeding
- c) Lacerated wound 1 cm x 1 cm x 1 cm over right face
- d) Deep abrasion 1 cm x 4 cm over right parietal area of head
- e) Abrasion 2 cm x 2 cm over right and left parietal area of head
- f) Abrasion (two) 3 cm x 3 cm each over right hand and left elbow
- g) Abrasion 2 cm x 2 cm over nose
- h) X-ray No. 3270 dated 23.5.2006 shows tibia and fibula fracture right leg

The injuries sustained by the claimant are also evident from discharge cards Ex. P-6 to 8, case sheet Ex. P-13, X-rays Exs. P-12 and supported by oral evidence of the claimant and doctor, who were examined as PWs-1 and 2 respectively. PW-2, doctor in his evidence has stated that the claimant has suffered disability of 8 to 10% to the whole body.

6. Considering the nature of injuries, a sum of Rs. 40,000/- is awarded towards "pain and suffering" as against Rs. 25,000/- awarded by the Tribunal.

7. As Rs. 30,430/- awarded by the Tribunal towards "medical expenses" is based on the medical bills produced by the claimant and there is no scope for enhancement under this head.

8. The claimant was treated as inpatient for a period of 21 days in Siddartha Hospital, Tumkur. Considering the duration of treatment, a sum of Rs. 10,000/- is awarded towards "incidental expenses" such as conveyance, nourishment and attendant charges as against Rs. 5,000/- awarded by the Tribunal.

9. The claimant claims to be working as an Electrical Engineer in BESCOM and earning a sum of Rs. 21,000/- per month and has produced salary slip at Ex. P-11. The Tribunal calculating the loss of leave in terms of salary, has rightly awarded Rs. 21,000/- towards loss of income during laid up period" and there is no scope for enhancement under this head.

10. The claimant after recovering from the injuries sustained by him, has continued his employment and there is no loss of employment. Therefore, he is not entitled for compensation under the head "loss of future income". Nevertheless, he has to bear with the disability stated by the doctor and certain amount of discomfort and unhappiness in his future life, therefore a sum of Rs. 25,000/- is awarded towards loss of amenities".

11. As Rs. 30,000/- awarded by the Tribunal towards "loss of discomfort" is just and proper, there is no scope for enhancement under this head..

12. Thus, the claimant is entitled for the following compensation:--

13. Accordingly, the appeal is allowed-in-part. The judgment and award passed by the Tribunal is modified to the extent stated herein above. The claimant is entitled for an additional compensation of Rs. 56,000/- with interest at 6% p.a. from the date of claim petition till the date of realization excluding interest for the delayed period of 332 days in filing the appeal.

14. The Insurance Company is directed to deposit-the additional compensation amount together with interest within two months from the date of receipt of a copy of this judgment excluding interest for the delayed period of 332 days in filing the appeal. From which, 75% of the amount with proportionate interest is ordered to be invested in fixed deposit in the name of claimant in any Nationalised Bank/Scheduled Bank/Post Office for a period of 3 years and with a right of option to withdraw interest periodically. Remaining amount with proportionate interest is ordered to be released in favour of the claimant. The Tribunal while releasing 25% of the amount is also directed to issue the fixed deposit slips, so as to enable the claimant to withdraw the deposit amount on its maturity without approaching the Tribunal once again and the Bank is directed to release the fixed deposit amount without insisting for any further order from the Tribunal.

No order as to costs.