

(2011) 11 KAR CK 0007
In the Karnataka High Court
Case No : M.F.A. No. 2841 of 2007 (MV)

Sri Ajith Rao

APPELLANT

Vs

United India Insurance Company Limited

RESPONDENT

Date of Decision : 09-11-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2011) 11 KAR CK 0007

Hon'ble Judges : V. Suri Appa Rao, J;N.K. Patil, J

Bench : Division Bench

Advocate : M.R. Chandra chooda, for the Appellant; S. Krishna Kishore -
Advocate for R-1, for the Respondent

Final Decision : Allowed

Judgement

1. This appeal by the claimant, is directed against the impugned common judgment and award dated 25-9-2006 passed in MVC 6690/2005 on the file of Motor Accident Claims Tribunal & Court of Small Causes, Bangalore. The Tribunal awarded compensation of Rs. 6,45,000/- with interest at 6% p.a. on account of the injuries sustained by the appellant in a road traffic accident. Since the quantum of compensation awarded by the Tribunal is inadequate, the present appeal is filed seeking enhancement.

2. The brief facts of the case are. the appellant claims that he was aged about 30 years as on the date of accident, hale and healthy and was doing electrical business earning more than Rs.20,000/- per month. On 9-7-2003 at about 10.30 a.m he met with an accident, sustained grievous injuries, undergone four surgeries and treatment for three months as in-patient. It is the case of the appellant that he has spent huge sums of amount towards medical expenses, conveyance, attendant charges etc,. On account of the injuries sustained, he is not in a position to do any work or continue his electrical business: He filed claim petition u/s 166 of the Motor Vehicles Act claiming compensation of Rs.20,00,000/-. The Tribunal, after assessing the oral and documentary evidence

on record and taking into consideration the avocation and the nature of injuries sustained, has awarded compensation of Rs.6,45,000/- with interest at 6% p.a. Not being satisfied with the same, the appellant has filed this appeal seeking enhancement of compensation.

3. The submission of learned counsel for the appellant is that, the Tribunal has not awarded reasonable compensation towards injury, pain and sufferings, conveyance, nourishing food and attendant charges and it has not award any compensation towards loss of amenities, discomfort and that the amount awarded towards loss of future income is on the lower side. However, after verification of the original records available on file, he fairly submitted that appellant is entitled to medical expenses of Rs.2,11,087/- only. Therefore, he submitted that the impugned judgment is liable to be modified, awarding just and reasonable compensation.

4. As against: this, learned counsel for the first respondent insurance company inter-alia contended that the award is passed after considering the oral and documentary evidence and no interference is called for by this Court. However, he submitted that the amount awarded towards pain and agony, conveyance, attendant charges is en the lower side and awarding compensation towards loss of amenities, discomfort and happiness and future loss of income may be considered in accordance with law.

5. After careful consideration of the submissions made on both sides, the only point for consideration is "whether the quantum of compensation awarded by the Tribunal is just and reasonable?"

6. The Tribunal after appreciating the oral and documentary evidence on record has rightly awarded Rs.30,000/- at the rate of Rs.5,000/- for six months towards loss of income during laid-up period and Rs.2,11,087/- towards medical expenses which does not call for interference by this Court. However, the Tribunal has erred in not awarding reasonable compensation towards pain and suffering, conveyance, nourishing food and attendant charges, loss of amenities, discomfort and loss of future income.

7. On account of severe injuries sustained, the appellant has undergone treatment for six months and underwent four surgeries The doctor has assessed the disability at 70%, 1/3rd of which will be 23% to the whole body. During the treatment period he has suffered pain and discomfort. He is not in a position to do the normal work. Discomfort persists through-out his life and a fleets his future career. The Tribunal is not justified in awarding compensation towards loss of future income. Taking into consideration all these factors, we deem it proper to award Rs.70,000/- towards pain and suffering, Rs.30,000/- towards conveyance, nourishing food and attendant charges, Rs.50,000/- towards loss of amenities, discomfort and unhappiness, Rs.2,34,600/- ($\text{Rs.5000/-} \times 12 \times 17 \times \frac{23}{100}$) towards future loss of income and Rs. 1,00,000/- towards future medical expenses.

8. Learned counsel for the parties have fairly submitted that after evaluation of the medical bills, the appellant is entitled to medical expenses of Rs.2,11,087/- only.

9. In the light of the discussion made above, appellant is entitled to compensation as follows:

Pain & Suffering

Rs. 70,000/-

Medical expenses

Rs. 2,11,087/-

Conveyance, nourishing food & Attendant charges

Rs. 30,000/-

Loss of income during treatment

Rs. 30,000/-

Loss of amenities, discomfort And unhappiness

Rs. 50,000/-

Loss of future income

Rs. 2,34,600/-

Future medical expenses

Rs. 1,00,000/-

TOTAL

Rs. 7,25,687/-

Thus, the appellant is" entitled to total compensation of Rs.7,25,687/- as against Rs.6,45,000/- awarded by the Tribunal. There is an enhancement of Rs.80,687/- with interest at 6% p.a. from the date of petition till the; date of realisation.

10. For the foregoing reasons, the instant appeal is allowed in part. The impugned judgment and award dated 25-09-2006 in MVC No.6690/2005 is hereby modified awarding a sum of Rs.80,687/- with 6% interest from the date of petition till realisation in addition to the compensation awarded by the Tribunal.

The first respondent is directed to deposit the enhanced compensation with interest within three weeks from the date of receipt of a copy of this judgment.

The enhanced compensation and interest shall be released to the appellant immediately after deposit by the first respondent.

Office to draw award accordingly.