

(2012) 01 KAR CK 0285
In the Karnataka High Court
Case No : M.F.A. No. 5314 of 2007 (MV)

Sri C. Rajagopal

APPELLANT

Vs

Sri Dennis Nico Lais Roach and The Manager Bajaj Allianz
General Insurance Co. Ltd.

RESPONDENT

Date of Decision : 06-01-2012

Acts Referred:

Citation : (2012) 01 KAR CK 0285

Hon'ble Judges : K. Govindarajulu, J;K. Bhakthavatsala, J

Bench : Division Bench

Advocate : Suneetha B.H., for Sri. Suresh M. Latur, for the Appellant; O. Mahesh, for R2, for the Respondent

Final Decision : Allowed

Judgement

Dr. K. Bhakthavatsala, J.—Learned counsel for the appellant: prays for enhancement of compensation. Sri.O.Mahesh, learned counsel for the respondent appearing for Respondent No. 2/Insurance Company submits that the Tribunal has awarded adequate compensation.

2. Perused the LCR.

3. The Tribunal has awarded compensation in favour of the claimant as under:

Pain, injuries and sufferings

Rs. 35,000/-

Medical expenses

Rs. 10,000/-

Incidental expenses

Rs. 5,000/-

Loss of income during treatment period

Rs. 9,000/-

Loss of amenities in future life

Rs. 20,000/-

Loss of future earning capacity

Rs. 64,000/-

TOTAL

Rs. 1,43,800/-

4. It is the case of the claimant that he was 50 years old earning Rs. 6,000/per month as a dry cleaner and he sustained grievous injuries in the motor accident that occurred on 25.06.2005, He was treated in Bowring Hospital at Bangalore from 26.06.2005 to 04.08.2005. He is a resident of Bangalore. He has produced his photograph showing condition of the right leg at Ex.P8. As per Ex.P6 Wound Certificate, the claimant sustained comminuted fracture of upper 1/3rd left tibia and fibula and two simple injuries over the left leg. Ex.P20 is the medical record pertaining to the case of the claimant as maintained in Bowring Hospital. The Tribunal has fixed income of the claimant at Rs. 3,000/- per month and awarded a sum of Rs. 9,000/- towards loss of earning for a period of three months.

5. PW-2 Dr. S. Ramachandra has deposed that the claimant has got permanent displacement to the extent of 40% with reference to right lower limb. In Para No, 13 of the impugned judgment the Tribunal has observed that the opinion of PW-2 that the claimant has got permanent displacement to the extent of 40% with reference to right lower limb and 20% with reference to the whole body is on the higher side and fixed permanent displacement at 15% to the whole body. The Tribunal has applied multiplier of "12". The claimant has not produced evidence regarding his income. Keeping in view that the accident occurred in the year 2005 and resident of Bangalore, his income can be fixed at Rs. 4,500/- per month. He has been treated conservatively. Since the claimant is 50 years old, according to the ratio laid down in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , multiplier "13" is applicable. Claimant is entitled for compensation as under:

Pain and suffering

Rs. 35,000/-

Medical expenses, past and future

Rs. 15,000/-

Attendant, conveyance and special diet expenses

Rs. 10,000/-

Loss of earning during period of treatment and rest (4500 X3)=

Rs. 13,500/-

Loss of earning (4500 X 12 X 13 X 15%) =

Rs. 1,05,300/-

Loss of amenities

Rs. 20,000/-

TOTAL

Rs 1,98,800/-

Less compensation awarded by the Tribunal

Rs. 1,43,800/-

Balance

Rs. 55,000/-

In the result, appeal is partly allowed holding that the appellant/claimant is entitled for additional compensation of Rs. 55,000/- along with costs and interest at the rate of 6% p.a. from the date of petition till its realisation. Accordingly, the impugned judgment and award are modified. Respondent No. 2/Insurance Company is directed to deposit the balance amount along with costs and interest with the Tribunal within three months from today.