

(2017) 04 KAR CK 0052
In the Karnataka High Court
Case No : 4835 of 2012

Sri. C.B.Chandrashekar

APPELLANT

Vs

Sri. Devaraju

RESPONDENT

Date of Decision : 12-04-2017

Acts Referred:

Citation : (2017) 04 KAR CK 0052

Hon'ble Judges : B Manohar

Bench : SINGLE BENCH

Advocate : M.K. Karegowda, P.B.Raju

Judgement

1. Appellant is the claimant. Being not satisfied with the quantum of compensation awarded in the judgment and award dated:27.08.2011 made in MVC No.13/2010 (Old No.91/2010) passed by the Motor Accident Claims Tribunal, Pandavapura, (hereinafter referred to as "the Tribunal", for short), he has filed this appeal seeking for enhancement of compensation.

2. The appellant filed a claim petition contending that on 09.06.2009 at about 12.00 p.m, while he was proceeding on his motor cycle bearing Registration No.KA-11- R-9580 from Maranahalli village, T.Narasipura Taluk to Srirangapatna, another motor cycle bearing Registration No.KA-02-EB-8650 ridden by the rider in a rash and negligent manner dashed against the motor cycle of the claimant. Due to that, he fell down and sustained grievous injuries. Immediately after the accident he was shifted to Srirangapatna Government Hospital and thereafter he was shifted to Basappa Memorial Hospital, Mysore wherein he was treated as an inpatient for a period of 20 days. In the said accident, he has sustained fracture of left humerus, injury to the left leg, abrasion over the right middle shaft and abrasion over the cheek.

3. In the claim petition, it was contended that he was working as an agriculturist, doing milk vending business and also running jaggery plant and earning Rs.12,000/- to Rs.15,000/- per month. In view of the injuries sustained, he was

unable to work as he was working prior to the accident. Therefore, the claimant sought for compensation of Rs.11,50,000/- with interest at 18% per annum.

4. The Insurance Company defended the case by filing written statement. The respondent No.1-owner of the vehicle was placed *ex parte* though served with notice.

5. After trial, the Tribunal held that due to actionable negligence on the part of rider of the offending vehicle, the accident occurred, he has sustained injuries and the claimant is entitled for compensation.

6. With regard to the quantum of compensation is concerned, the doctor who treated the claimant, has assessed the disability to an extent of 25% to 30% to the left hand. No documents have been produced to substantiate the earning of the claimant as Rs.12,000/- to Rs.15,000/- per month. The Tribunal taking into consideration the monthly income as Rs.4,500/- and disability to the whole body to an extent of 10% and applying multiplier "16" considering the age of the claimant as 35 years, awarded a sum of Rs.86,400/- towards future loss of income, Rs.52,651/- towards medical expenses, Rs.20,000/- towards pain and agony, Rs.15,000/- towards food and nourishment and conveyance charges, Rs.9,000/- towards loss of income during the treatment period and Rs. 35,000/- towards future medical expenses. In all, a sum of Rs.2,18,051/- with interest at 6% per annum has been awarded as compensation by the Tribunal. Being not satisfied with the quantum of compensation, the claimant has preferred this appeal.

7. I have carefully considered the arguments addressed by the learned counsel for the appellant- Sri M.K.Kempegowda and learned counsel for respondent No.2- Sri.P.B.Raju and perused the judgment and award as well as the oral and documentary evidence.

8. The dispute in this appeal is only with regard to the quantum of compensation. In the road traffic accident occurred on 09.06.2009, the claimant has sustained three simple injuries i.e., abrasion over right cheek, sutured wound over right side of forehead and fracture of left humerus. He took treatment in Basappa Memorial Hospital, Mysore as an inpatient for a period of 20 days. Thereafter he took follow up treatment. Though he has claimed medical expenditure to an extent of Rs.2,00,000/-, he produced medical bills to an extent of Rs.52,651/-. In the said accident he has sustained fracture of left humerus and three other injuries are simple in nature. The doctor has assessed the disability to an extent of 25% to 30% to the left hand. However Tribunal has taken the disability to an extent of 10% to the whole body and awarded compensation awarded which is in accordance with law. However Tribunal has not awarded any compensation towards amenities of life. Hence he is entitled for compensation of Rs.20,000/- towards amenities of life in addition to a sum of Rs.2,18,051/- with interest at 6% p.a. awarded by the Tribunal. Accordingly, I pass the following: ORDER

The appeal is allowed in part. The judgment and award dated 27.08.2011 made

in MVC No.13/2010 (Old No.91/2010) by the M.A.C.T., Pandavapura, is modified and the claimant is entitled for enhanced compensation of Rs.20,000/- with interest at 6% per annum in addition to Rs.2,18,051/- awarded by the Tribunal.