
(2012) 02 KAR CK 0050
In the Karnataka High Court
Case No : M.F.A. No. 711 of 2009 (MVC)

Sri D Harish

APPELLANT

Vs

Sri Mani and The Oriental Insurance Co. Ltd.

RESPONDENT

Date of Decision : 02-02-2012

Acts Referred:

Citation : (2012) 02 KAR CK 0050

Hon'ble Judges : Ravi Malimath, J

Bench : Single Bench

Advocate : KT Gurudeva Prasad, for the Appellant; AN Krishnaswamy, for R2 and R-1, for the Respondent

Final Decision : Allowed

Judgement

Ravi Malimath

1. The case of the claimant is that on 20.12.2006 at about 4:00 a.m. when he and others were proceeding in a Tata Eicher Tempo bearing registration No.AP-06-U-6627 in which one of the claimant's damaged tata sumo was being shifted from Dharmapuri to Palamner, the driver of the said vehicle drove the same in a rash and negligent manner and dashed against a stationery lorry bearing registration NO.TN-29-AA-7418, as a result, the claimant sustained injuries. On a claim being filed, the Tribunal by the impugned judgment and award granted compensation of Rs. 1,62,500/- along with interest @ 6% p.a. from the date of the petition till the date of deposit. Hence, the present appeal is filed by the claimant seeking enhancement.

2. Heard learned counsels and examined the records.

3. The Tribunal on considering the plea of the claimant has awarded compensation as follows:-

HEADS

Rs.

Pain and agony

60,000

Medical Expenses (including conveyance, nourishment and attendant charges)

28,000

Lose of income during laid up period

7,500

Loss of future earning capacity

27,000

Loss of amenities

40.000

TOTAL

1,62,500

4. The claimant is said to be aged about 15 years on the date of accident. The notional income of Rs. 15,000/- p.a. was taken by the Tribunal The Tribunal based on the doctors evidence that the claimant has sustained disability of 10% and applying a multiplier of "18", calculated the loss of future earning capacity at Rs. 27,000/- (Rs. 15,000x18x10%).

5. The claimant claims to be assisting his father in the day to day business and his notional income would have be to be reckoned. Hence, the same is taken at Rs. 2,000/- p.m. Therefore, loss of future earning capacity works out to Rs. 43,200/-(Rs. 2,000x12x18x10%).

6. A sum of Rs. 60,000/- awarded by the Tribunal towards pain and sufferings remains undisturbed.

7. For the loss of earning during treatment period, a sum of Rs. 7,500/- is awarded. Looking to the injuries suffered by the claimant, he would require atleast 6 months to recover from the injuries. Hence, Rs. 12,000/- (Rs. 2,000x6) is awarded as against Rs. 7,500/- awarded by the Tribunal.

8. Towards medical, conveyance, nourishment and attendant's expenses, a sun of Rs. 28,000/- is awarded. The claimant has produced medical bills to the tune of Rs. 21,162/-. He was an inpatient for almost 10 days. Hence, considering the same, a sum of Rs. 40,000/- is awarded under these heads as against Rs. 28,000/- awarded by the Tribunal.

9. Towards loss of amenities, 40,000/-awarded by the Tribunal is just and proper and same remains undisturbed.

10. Thus, the claimant is now entitled to the following compensation:-

HEADS

Rs.

Pain and agony

60,000

Medical Expenses (including conveyance, nourishment and attendant charges)

40,000

Loss of income during laid up period

12,000

Loss of future earning capacity

43,200

Loss of amenities

40,000

TOTAL

1,95,200

11. Accordingly, the appeal is allowed-in-part. The compensation is enhanced to Rs. 1,95,200/- as against Rs. 1,62,500/- awarded by the Tribunal. The enhanced amount shall bear interest @ 6% p.a. from the date of the petition till the date of payment. The amount shall be paid within a period of 8 weeks from the date of receipt of a copy of this order.