

(2011) 10 KAR CK 0004
In the Karnataka High Court
Case No : M.F.A. No. 9128 of 2009 (MV)

Sri. K.B. Bettegowda

APPELLANT

Vs

National Insurance Co. Ltd. and G. K. Reddy

RESPONDENT

Date of Decision : 15-10-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2011) 10 KAR CK 0004

Hon'ble Judges : N. K. Patil, J

Bench : Single Bench

Advocate : Shripad V. Shastri, for the Appellant; O. Mahesh, for R1; Notice to R2 Dispensed, for the Respondent

Final Decision : Allowed

Judgement

N. K. Patil

1. This appeal by the claimant is arising out of the impugned Judgement and award dated 08.07.2009 passed in MVC No.5695/2007 on the file of the XIII Addl. Judge, Court of Small Causes, Motor Accident Claims Tribunal, Bangalore (hereinafter referred to as "Tribunal" for short). The Tribunal by its impugned judgment and award, has awarded a sum of Rs. 60,000/- with interest at 6% p.a., from the date of petition till the date of realization on account of the injuries sustained by the appellant in the road traffic accident. The quantum of compensation awarded by the Tribunal being inadequate and requires enhancement, he has presented this appeal.

2. The appellant-claimant was aged about 59 years and a retired Government servant He was working as a Special Officer at Office of the Chief Secretary to Chief Minister, Government of Karnataka drawing a salary of Rs. 27,000/- per month and was hale and healthy, prior to the accident That, at about 4.45 p.m. on 29.12.2006, when he was driving a car bearing No.KA-01-Z-1098 near Mogili Ghat Road. Bangarupalem, a lorry bearing No.TN-02-Y-4765 came from opposite

direction driven by its driver in a rash and negligent manner and dashed against the said car. As a result, he sustained grievous injuries. Immediately he was shifted to Suguna Hospital and he underwent treatment for a period of more than 30 days and also underwent a surgery. It is the case of the appellant that he spent considerable amount towards conveyance, nourishing food and attendant charges apart from medical expenses and Doctor has assessed the disability of 30% to the left upper arm and 10% to the whole body.

3. With the above background, he filed claim petition u/s 166 of Motor Vehicles Act, seeking compensation of Rs. 20 lakhs against the owner and insurer of vehicle. The said claim petition had come up for consideration before the Tribunal. The Tribunal after appreciation of the oral and documentary evidence and other material available on record, allowed the same in part and awarded a sum of Rs. 60,000/- under different heads. Being dissatisfied with the quantum of compensation awarded by the Tribunal, appellant has presented this appeal, seeking enhancement of compensation.

4. The submission of the learned counsel appearing for the appellant, at the outset is that the Tribunal has not awarded reasonable compensation towards loss of amenities, discomfort, unhappiness and no compensation is awarded towards future medical expenses. Therefore, he submitted that reasonable enhancement may be made by modifying the impugned judgment and award passed by Tribunal.

5. Per contra, the learned counsel for the insurer contends and substantiates the judgment and award as just and proper for the reason that the Tribunal has rightly assessed the compensation under different heads and awarded, compensation of Rs. 60,000/- and hence it does not call for interference by this Court.

6. After careful consideration of submission of counsel for both the parties and after perusal of the impugned Judgment passed by the Tribunal, the point that arises for consideration is :

Whether the quantum of compensation awarded by Tribunal is just and reasonable?

7. The injuries sustained by the appellant in the road traffic accident is not in dispute. The tribunal after consideration of oral and documentary evidence and taking into consideration all the relevant aspects has rightly awarded compensation of Rs. 30,000/- towards pain and sufferings and Rs. 20,000/- towards attendant charges, Hence, interference by this Court in the same, is uncalled for.

8. The Tribunal has not awarded reasonable compensation towards loss of amenities, disability, discomforts and unhappiness and future medical expenses. It is not in dispute that the appellant had undergone treatment for more than 30 days as an inpatient The Doctor - PW2 has assessed disability at 30% to the left

upper arm and 10% to the whole body. The same is accepted. He has undergone one surgery. He being aged 59 years has to endure this disability for the rest of his life. This aspect in the matter has not been considered by the Tribunal. Taking into consideration, the nature of injuries sustained, nature and duration of treatment, I award compensation of Rs. 30,000/- towards loss of amenities, discomforts and unhappiness and Rs. 10,000/- towards future medical expenses. In all, the appellant is entitled to a sum of Rs. 90,000/- as against Rs 60,000/- awarded by the Tribunal. There will be an enhancement of Rs. 30,000/- with interest at 6% p.a. from the date of petition till the date of realisation.

9. Having regard to the facts and circumstances of the case referred to above, the instant appeal is allowed in part. The impugned judgment and award dated 08.07.2009 passed in MVC No.5695/2007 on the file of the XIII Addl. Judge, Court of Small Causes, Motor Accident Claims Tribunal, Bangalore, is hereby modified. Sum. of Rs. 30,000/- with interest at 6% per annum from the date of petition till the date of realisation is awarded in addition to the compensation awarded by the Tribunal.

10. The 1st respondent-Insurer is directed to deposit the enhanced compensation with interest, within three weeks from the date of receipt of a copy of this judgment and award.

11. The enhanced compensation with interest shall be released in favour of the appellant, immediately, on deposit by the Insurer. Draw the award, accordingly.