

(2012) 08 KAR CK 0276
In the Karnataka High Court
Case No : MFA No. 8099 of 2011 (MV)

Sri. R. Thippeswamy

APPELLANT

Vs

United India Insurance Co. Ltd., Do. 34/3, M.M.K. Complex,
PB No. 237, Akkamahadevi Road, P.J. Extension,
Davanagere-577002 and Sri. H.M. Jayanna

RESPONDENT

Date of Decision : 06-08-2012

Acts Referred:

Citation : (2012) 08 KAR CK 0276

Hon'ble Judges : B. Sreenivase Gowda, J

Bench : Single Bench

Advocate : Nagaraja M, for the Appellant; Puttige R. Ramesh, Adv for R. 1, for the Respondent

Judgement

B. Sreenivase Gowda

1. This appeal is by the claimant seeking enhancement of compensation awarded by the Tribunal. Heard the learned counsel appearing for parties. The appeal is admitted and with the consent of learned Counsel appearing for the parties, it is taken up for final disposal.

2. For the sake of convenience parties are referred to as they are referred to in the claim petition before the Tribunal.

3. As there is no dispute regarding injuries sustained by the claimant in a road traffic accident occurred on 24-9-09 due to rash and negligent riding of motor cycle bearing registration No. KA-16-R-4763 by its rider and liability of the insurer of the offending vehicle, the only point that remains for my consideration in the appeal is:

Whether quantum of compensation awarded by the Tribunal is just and proper or does it call for enhancement

4. After hearing the learned Counsel for the parties and perusing the Judgment

and award of the Tribunal, I am of the view that the compensation awarded by the Tribunal is not just and reasonable, it is on the lower side and therefore, it is deserved to be enhanced.

5. As per Ex.P.5 - wound certificate issued by Government Hospital, Challakere, claimant has sustained fracture of right ankle medial malleolus. Injuries sustained and treatment taken by him are also evident from OPD slip - Ex. P.10, x-ray - Ex.P.11 and supported by oral evidence of the claimant and doctor examined as P.Ws. 1 and 2 respectively.

P.W. 2 - Dr. S.G.Shivaprakash has stated, claimant has suffered disability of 11% to whole body.

6. Considering nature of injuries sustained by the claimant, a sum of Rs.20,000/- is awarded towards pain and suffering as against Rs. 15,000/- awarded by the Tribunal under this head.

7. Claimant has not produced any medical bills regarding amount spent towards medical expenses. He was treated as inpatient for 7 days in Government Hospital, Challakere. Considering the same, a sum of Rs. 5,000/- is awarded towards medical and incidental expenses as against Rs. 3,500/- awarded by the Tribunal.

8. He claims to have been earning Rs. 10,000/- per month by doing agriculture and has produced RTC extract at - Ex.P.7. Considering his age as 22 years and year of accident as 2009, his income is assessed at Rs. 4,000/- per month. Nature of injuries suggest, he must have been under rest and treatment for a period of three months. Therefore, a sum of Rs. 12,000/- is awarded towards loss of income during laid up period as against Rs. 8,000/- awarded by the Tribunal under this head.

9. Considering nature of injuries sustained, disability stated by the doctor and an amount of discomfort and unhappiness which the claimant has to undergo for the rest of his life, a sum of Rs. 15,000/- is awarded towards loss of amenities as against Rs. 10,000/- awarded by the Tribunal under this head.

10. Multiplier applicable to the age group of the claimant is Rs. 18". His income is assessed at Rs. 4,000/- per month. Doctor has stated, he has suffered disability of 11% to whole body. So loss of future income works out Rs.95,040/- (Rs.4,000/- x 12 x 11/100 x 18) and it is awarded.

11. Thus the claimant is entitled for the following compensation:

1)

Pain and suffering

Rs. 20,000/-

2)

Medical and incidental expenses

Rs. 5,000/-

3)

Loss of income during laid up period

Rs. 12,000/-

4)

Loss of amenities

Rs. 15,000/-

5)

Future loss of income

Rs. 95,040/-

Total

Rs. 1,47,040/-

Less compensation awarded by the Tribunal

Rs. 36,500/-

Additional compensation

Rs. 1,10,540/-

12. Accordingly the appeal is allowed in part and the Judgment and award of the Tribunal is modified to the extent stated herein above. The claimant is entitled for additional compensation of Rs. 1,10,540/- with interest at 6% p.a. from the date of claim petition till the date of realisation. The Insurance Co. is directed to deposit the additional compensation with interest within two months from the date of receipt of a copy of this judgment, from which Rs. 75,000/- with proportionate interest is ordered to be invested in FD in any nationalised or scheduled Bank or post office, in the name of the claimant for a period of 12 years, renewable once every two years, with a right of option for him to withdraw interest periodically and the remaining amount is ordered to be released in his favour.

No order as to costs.