

(2017) 03 KAR CK 0233
In the Karnataka High Court
Case No : 5527 of 2013 (MV)

SRI RAMA NAIK @ RAMESH NAIK

APPELLANT

Vs

SRI RAMESHWARA RAO U.H & ANR.

RESPONDENT

Date of Decision : 17-03-2017

Acts Referred:

[Motor Vehicles Act, 1988](#), [Section 173\(1\)](#)
[Section 173\(1\)](#) - Appeals

Citation : (2017) 03 KAR CK 0233

Hon'ble Judges : B Manohar

Bench : SINGLE BENCH

Advocate : SARITHA KULKARNI, K POORNABODHA RAO

Judgement

1. Appellant is the claimant, being not satisfied with the quantum of compensation awarded in the judgment and award made in MVC No.1115/2010 dated:01.09.2012 passed by the I Additional District Judge and MACT, Davanagere, (hereinafter referred to as "the tribunal" for short), he has filed this appeal, seeking for enhancement of compensation.

2. The appellant filed the claim petition contending that on 20.05.2010, while he was proceeding in a motor-cycle bearing registration No.KA-17/EA-7736 towards Channagiri on NH-13 as a pillion rider, at that time, the driver of the Maruthi Zen car bearing registration No.KA-17/MC-3339 drove the same in a rash and negligent manner and dashed against the motor cycle of the claimant. Due to the said impact, the claimant fell down and sustained injuries all over the body. Immediately after the accident, he was shifted to Government Hospital, Channagiri. After first aid, he was shifted to Bapuji hospital, Davanagere, wherein, he had taken treatment as an inpatient. Further, he also taken treatment in Sugandha hospital, Davanagere. Thereafter, as per the advice of the Doctor, he was shifted to District Meechong Hospital, Shimoga. From there he was shifted to Yenepoya Medical college Hospital, Mangalore. He has taken treatment in various hospitals and spent huge money towards treatment. Due to the rash

and negligent driving of the Maruti Zen car, the accident occurred. Hence, the claimant sought for compensation of Rs.6,25,000/-.

3. Insurance company defended the case by filing written statement.

4. After trial, the tribunal held that due to the actionable negligence on the part of the driver of the Maruthi Zen car the accident occurred and the claimant has sustained injuries. Hence, he is entitled for compensation.

5. There is no dispute with regard to occurrence of the accident and injuries sustained by the claimant. The only dispute is with regard to quantum of compensation is concerned. In the accident, the claimant has sustained fracture of temporal parietal region, fracture to lateral wall of left maxillary region and other injuries to body. In view of head injury he has sustained, MDCT scan of brain of the claimant has been taken in Yenepoyo Medical College Hospital, Mangalore and it discloses that he has sustained acute subdural hemorrhage in right temporoparietal region. The Doctor who treated the claimant has assessed the disability to an extent of 20% to the whole body. The tribunal taking into consideration income of the claimant at Rs.4,000/- per month, applying multiplier of "14" as he was aged about 45 years at the time of accident and taking disability at 20% awarded the compensation of Rs.1,34,400/- towards loss of future earning. Further, a sum of Rs.20,000/- was awarded towards pain and suffering, a sum of Rs.5,700/- towards medical expenses, a sum of Rs.15,000/- towards loss of amenities, a sum of Rs.8,000/- towards loss of earning during laid up period and a sum of Rs.10,000/- towards food, traveling expenses. In all, a sum of Rs.1,93,100/- was awarded as compensation. Being not satisfied with the quantum of compensation awarded by the tribunal, the claimant has preferred this appeal.

6. I have carefully considered the arguments addressed by the learned counsel for the parties, perused the judgment and award and oral and documentary evidence.

7. In the road traffic accident occurred on 20.05.2010, due to the actionable negligence on the part of the driver of the maruthi zen car the accident occurred and the claimant has sustained head injury and fracture of lateral wall of left maxillary. He has taken treatment in various hospitals. MDCT scan shows that there is acute subdural hemorrhage in right temporoparietal region. The doctor who treated the claimant is of the opinion that in view of the constant treatment he had undergone, there may be improvement in his mental condition. The doctor has assessed the disability to an extent of 20% to the whole body. The accident occurred in the year 2010, a sum of Rs.4,000/- taken as income of the claimant for the purpose of computation of loss of future earning by the tribunal is contrary to law. Even the daily wage workers working in various Government Department, the income being assessed as Rs.5,500/- per month. Therefore, taking into consideration disability at 20%, applying multiplier of "14" as he was aged about 45 years at the time of accident and taking the income at Rs.5,500/-

per month, the compensation towards loss of future income would works out to Rs.1,84,800/- as against Rs.1,34,400/- awarded by the tribunal. Further, a sum of Rs.20,000/- awarded by the tribunal towards pain and suffering is on the lower side. Hence, another sum of Rs.20,000/- is awarded under the said head. A sum of Rs.15,000/- was awarded towards loss of amenities of life by the tribunal is too meager. In view of the injuries sustained in the accident, he became permanently disabled to do the work as he was doing earlier and he has to lead his remaining life with that disability. Hence, another sum of Rs.10,000/- is awarded towards loss of amenities of life. Another sum of Rs.5,000/- is awarded towards loss of earning during laid up period. In all, the claimant is entitled for enhanced compensation of Rs.85,400/- with interest at 6% per annum in addition to a sum of Rs.1,93,100/- awarded by the tribunal.

8. Accordingly, I pass the following:

ORDER

The appeal is allowed in part. The judgment and award dated:01.09.2012 made in MVC No.1115/2010 passed by the I Additional District Judge and MACT, Davanagere, is modified and the claimant is entitled for enhanced compensation of Rs.85,400/- with interest at 6% per annum in addition to a sum of Rs.1,93,100/- awarded by the tribunal.