

(2011) 12 KAR CK 0352

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 6691 of 2011 (MV)

Sri. Ramesh

APPELLANT

Vs

Sri. Chinnuswamy

RESPONDENT

Date of Decision : 01-12-2011

Acts Referred:

Citation : (2011) 12 KAR CK 0352

Hon'ble Judges : Huluvadi. G. Ramesh, J

Bench : Single Bench

Advocate : K Shantharaj, for the Appellant; B C Seetharama Rao, for R2, for the Respondent

Judgement

Huluvadi. G. Ramesh

1. Delay of 6 days in preferring the appeal is condoned. I.A. No. I/2011 is allowed.

2. This appeal is by the claimant seeking enhancement of compensation as against the award passed by the Addl. Civil Judge (Sr. Dn.) & MACT, Ramanagara in M.V.C.No. 83/2008.

3. The claimant is said to have sustained three simple injuries and one grievous injury in the accident occurred on 25.9.2007, due to the negligence of the driver of the lorry bearing No. KA01 D 1757 near Channapatna. Claimant has sustained fracture of the shaft of left shoulder. The Doctor has opined that there is 10.9% disability to the whole body. The Tribunal has awarded a total compensation of Rs. 29,000/- under the following heads:

Medical expenses and incidental

Expenses

1,000/-

Loss of income during treatment

Rs. 3,000/-

Pain and suffering

15,000/-

Loss of amenities

10,000/-

Being not satisfied, the claimant is before this Court.

4. Heard.

5. Learned Counsel appearing for the respondent has submitted that, the Doctor who has treated the claimant has not been examined, but some other Doctor has been examined.

6. However, the Learned Counsel for the appellant has submitted that the Doctor who has treated the claimant himself has given the evidence.

7. Having regard to the injuries suffered, the claimant could be awarded another Rs. 5,000/- on the head pain and suffering and another Rs. 5,000/- towards loss of amenities.

Taking the disability at 5% to the whole body and the income of the claimant at Rs. 4,000/- per month, since the accident is of the year 2007, the claimant could be awarded Rs. 36,000/- towards loss of future earning due to disability, in view of the evidence of the Doctor that claimant has sustained disability of 10.9% to the whole body and claimant could be awarded another Rs. 4,000/- towards incidental expenses. Thus, in all, claimant would be entitled for Rs. 50,000/- over and above what has been awarded by the Tribunal with 6% interest from the date of petition till deposit. Insurer to deposit the amount in three months.

Appeal is allowed in part.

Sri. B C. Seetharama Rao is permitted to file his vakalath within four weeks.