

(2017) 02 KAR CK 0265
In the Karnataka High Court
Case No : 2631 of 2014(MV)

SRI SANGEETHA D/O CHANDRAPPA

APPELLANT

Vs

THE DIVISIONAL CONTROLLER KSRTC, SARIGE BHAVANA, &
ORS.

RESPONDENT

Date of Decision : 21-02-2017

Acts Referred:

Citation : (2017) 02 KAR CK 0265

Hon'ble Judges : B.Manohar

Bench : SINGLE BENCH

Advocate : HARISH.N.R., SIDDAPPA.B.M., F.S.DABALI

Final Decision : Disposed

Judgement

1. Appellant is the claimant, being not satisfied with the quantum of compensation awarded in the judgment and award dated 18-05-2013 made in MVC No.463/2012 passed by the Motor Accident Claims Tribunal, Chitradurga (hereinafter referred to as "the Tribunal" for short) has filed this appeal seeking enhancement of compensation.

2. The appellant filed a claim petition contending that on 22-07-2010 at about 9.15 a.m., while the claimant along with other students was proceeding in an auto rickshaw bearing Registration No.KA-06/B-4272 from their village to go to School at Jagalur, a KSRTC bus bearing Registration No. KA-35/F-03 driven by its driver in a rash and negligent manner, came from opposite side in a high speed and dashed against the said auto rickshaw. Due to that, the inmates of the auto rickshaw had sustained grievous injuries. Immediately, after the accident, the claimant was shifted to the Government Hospital at Jagalur and taken treatment therein. In the claim petition, it was contended that due to the accident occurred, the claimant has sustained blunt injury to her shoulder and she had taken treatment as out- patient for a period of one week and has spent more than Rs.10,000/- towards medical expenditure. Hence, sought for compensation of Rs.50,000/-.

3. In response to the notice issued by the Tribunal, the respondent-Corporation defended their case by filing the written statement.

4. The Tribunal, after appreciating the oral and documentary evidence let in by the parties found that in the accident, as per the wound certificate Ex.P26, the claimant has sustained only a blunt injury on her left shoulder. However, no document has been produced to show that she had taken treatment as an out-patient, neither medical bills nor prescriptions have been produced. In view of that, the Tribunal has awarded global compensation of Rs.5,000/- with interest at the rate of 6% p.a. Further, it was held that, there is a contributory negligence on the part of driver of the Auto rickshaw and accordingly, 40% contributory negligence was fixed on the driver of the Auto. Being not satisfied with the quantum of compensation awarded by the Tribunal and fastening contributory negligence on the driver of Auto to an extent of 40%, the appellant has filed this appeal seeking enhancement of compensation.

5. Sri.Harish N.R., learned counsel appearing for the appellant contended that compensation of Rs.5,000/- awarded towards injuries sustained by the claimant in the accident is on the lower side. While the claimant was traveling in the auto rickshaw along with other students, a KSRTC bus dashed against the said auto rickshaw and she has sustained blunt injury to her left shoulder. In view of the injuries sustained, she had taken treatment for a period of one week. The Tribunal ought to have taken into consideration the wound certificate and awarded reasonable compensation. Further, he relied upon the judgment of this Court in MFA No.2629/2014 disposed of on 10th September 2015 arising out of the very same accident in MVC No.461/2012 and requested the court to pass the similar order and also sought for enhancement of compensation.

6. On the other hand, Sri.F.S.Dabali, learned counsel appearing for Respondent Nos.1 and 2 argued in support of the judgment and award passed by the Tribunal and sought for dismissal of the appeal.

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

8. In the road traffic accident, the claimant has sustained blunt injury on her left shoulder. No document has been produced to show that she has incurred any expenditure towards treatment. She had taken treatment in the Government Hospital, Jagalur. Though the claimant claims that she has spent more than Rs.10,000/- towards medical expenditure and taken treatment as out-patient for a period of one week, neither the Out-Patient Card nor the medical bills along with prescriptions have been produced to prove the same. Wound Certificate Ex.P26 discloses that except the blunt injury, the claimant has not suffered any other injury. The Tribunal taking into consideration the injuries sustained and suffering undergone by the claimant has rightly awarded a sum of Rs.5,000/- for the simple injury. I find no infirmity or irregularity in the said judgment and

award.

9. Insofar as liability is concerned, this Court in MFA No.2629/2014 arising out of the very same accident in paragraphs 12 and 13 held as under:

12. The wound certificate is at Ex.P6 which shows that the claimant had sustained abrasion over back of right elbow and blunt injury on right hip. She has not produced any other materials in support of her contention that she had sustained grievous injuries. The Doctor who had treated her has not been examined. In the circumstances, the Tribunal has awarded global compensation of Rs.5,000/- which is just and reasonable.

13. In the result, the appeal succeeds and it is accordingly allowed in part. The respondent- Corporation is directed to deposit a sum of Rs.5,000/- awarded by the Tribunal. However, liberty is reserved to the Corporation to recover 40% of the compensation awarded by the Tribunal from other tortfeasors namely, the owner and the driver of the auto rickshaw bearing Registration No.KA- 06/B-4272 in accordance with law."

In view of the judgment referred to above, the claimant in this appeal is also entitled for the similar relief as was granted in the aforesaid appeal.

10. Accordingly, the appeal is disposed off in terms of the judgment made in MFA No.2629/2014 disposed of on 10-09-2015. Hence, the appellant is entitled for compensation of Rs.5,000/- with interest at the rate of 6% p.a. The Corporation is directed to deposit the entire compensation amount with interest as awarded by the Tribunal. However, liberty is reserved to the Corporation to recover 40% of the compensation awarded by the Tribunal from other tortfeasors namely the owner and driver of the auto rickshaw bearing Registration No.KA-06/B-4272 in accordance with law.