(2013) 11 KAR CK 0221

In the Karnataka High Court

Case No : M.F.A. No. 5824 of 2011 (MV)

Srikanth K. APPELLANT

Vs

The ISSRO Master Control Facility RESPONDENT

Date of Decision : 25-11-2013

Acts Referred:

Citation : (2013) 11 KAR CK 0221

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : D.S. Sidhar, for the Appellant; M.V. Chandrashekara Reddy, for the Respondent

Final Decision : Partly Allowed

Judgement

S. Abdul Nazeer, J.—This appeal by the claimant is directed against the judgment and award in MVC No. 1949/2009 dated 3.2.2011 on the file of the VI Addl. Judge, Court of Small Causes and MACT, at Bangalore City, whereby the Tribunal has awarded total compensation of Rs. 7,75,000/- with interest at 6% p.a. from the date of the petition till the date of deposit. Learned counsel for the appellant/ claimant submits that the claimant had sustained grievous injuries in the accident. Two Doctors have been examined in support of the claimant''s plea. One of the Doctor has opined that claimant had sustained 30% permanent disability to the whole body. The other Doctor has assessed 17% permanent disability to the whole body. The Tribunal has taken 25% permanent disability to the whole body instead of 30%. The claimant was working with M/s. Rai Industrial Power (P) Ltd., and earning Rs. 10,000/- per month. The salary certificate at Ex.P8 has been produced in support of the said contention. PW3 is the Accounts Manager of the aforesaid firm who has deposed that claimant was paid Rs. 10,000/- per month towards his salary. However, the Tribunal has taken his income at Rs. 5,000/- per month without any basis. It is argued that claimant was hospitalized for 28 days spreading over a period of one year. The Tribunal has not awarded any compensation towards loss of income during the treatment period and towards food, conveyance and nourishment. The amount of compensation awarded towards loss of amenities, pain and suffering are on the lower side.

2. On the other hand, learned advocate appearing for the respondent - insurance company has sought to justify the impugned judgment and award.

3. I have carefully considered the arguments made at the Bar and the materials placed on record.

4. There is no dispute as to the occurrence of the accident and liability of the insurance company to pay the compensation. Having regard to the contentions urged, the only question for consideration is whether the award of compensation by the Tribunal is adequate?

5. The accident had occurred on 12.1.2009. The claimant was aged 25 years at the time of accident. The Doctors who was examined as PW4 has opined that claimant had sustained 30% permanent disability to the whole body and another Doctor who was examined as PW5 has stated that claimant had sustained 17% whole body disability. The Tribunal on appreciation of the evidence on record has rightly held that claimant had sustained 25% disability to the whole body.

6. The claimant contends that he was earning Rs. 10,000/- per month. His employer M/s. Rai Industrial Power (P) Ltd., has issued certificate at Ex.P8 stating that he was drawing Rs. 10,000/- per month from 1.4.2005 to 12.1.2009. The Accounts Manager of the aforesaid firm was examined as PW3. He has reiterated that the claimant was paid Rs. 10,000/- per month towards salary. PW-3 has categorically stated that after the accident, claimant was terminated from the employment. The claimant was sincere, intelligent, honest, hard worker, dynamic and industrious and he had bright future and he could have reached highest position in the organization with the working skills. Taking into consideration the salary certificate at Ex.P8 and the evidence of PW3, the Tribunal ought to have taken his salary at Rs. 10,000/- per month. By taking income of the claimant at Rs. 10,000/- per month with application of multiplier 18 and 25% permanent disability to the whole body, the compensation payable towards loss of future earning comes to Rs. 5,40,000/-.

7. The claimant has produced medical bills worth Rs. 4,14,077/-. Therefore he is entitled a sum of Rs. 4,15,000/- towards medical bills. As stated above, the claimant was an inpatient for a period of 28 days spreading over a period of one year. He has also taken follow up treatment. Therefore, he is entitled for a sum of Rs. 60,000/- towards conveyance, food and nourishment, etc. A sum of Rs. 60,000/- is awarded towards pain and suffering and Rs. 40,000/- towards loss of amenities. He is entitled for a sum of Rs. 1,20,000/- (12 months income at the rate of Rs. 10,000/- per month) towards loss of income during the treatment period. He is also entitled a sum of Rs. 15,000/- towards future medical expenses for removal of implants.

8. Thus, the compensation payable to the claimant is reassessed as under:

9. The Tribunal has totally awarded Rs. 7,75,000/-, which has to be deducted from the aforesaid amount. Thus, the claimant is entitled for a balance compensation of Rs. 4,75,000/-. In the result, the appeal succeeds and allowed in part. The respondent-insurance company is directed to deposit a sum of Rs. 4,75,000/- with interest at 6% p.a. from the date of the application till the date of deposit within a period of eight weeks from the date of receipt of copy of this order. The claimant is permitted to withdraw the said amount on its deposit. No costs.

