

(2013) 07 KAR CK 0337
In the Karnataka High Court
Case No : M.F.A. No. 2267 of 2013 (MV)

Sudhakar

APPELLANT

Vs

The Divisional Controller

RESPONDENT

Date of Decision : 26-07-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2013) 07 KAR CK 0337

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : G. Ravishankar Shastry, for the Appellant;

Final Decision : Dismissed

Judgement

N.K. Patil, J.—This appeal by the claimant is directed against the common judgment and award dated 19th December 2012, passed in MVC No. 480/2011, by the III Additional District and Sessions Judge, Member, Motor Accident Claims Tribunal-IV, Mangalore, D.K., (for short, "Tribunal") for enhancement of compensation on the ground that, the compensation of Rs. 20,000/- with interest @ 6% p.a. awarded in favour of the claimant as against his claim for Rs. 2,00,000/-, is inadequate. The appellant claims to be aged about 18 years and hale and healthy prior to the date of accident. That the occurrence of accident at about 3:45 A.M., on 05-11-2010, when the appellant along with others was travelling in a KSRTC Bus bearing Registration No. KA-19/F-2293, from Puttur side towards Uppinangady side, near Kodimbady of Kodimbady village, Puttur Taluk, due to rash and negligent driving by the driver of the said Bus, is not in dispute. It is also not in dispute that the appellant has sustained right wrist injury and as per X-ray of right wrist, there was lower end radius fracture and the said injury is grievous in nature. Due to the injuries sustained in the accident, he was shifted to the Hospital.

2. It is his further case that, on account of the accident, he sustained injuries stated above for the treatment of the said injuries, he has spent reasonable

amount towards conveyance, nourishing food and attendant charges including medical expenses and other incidental expenses and therefore, he has to be compensated reasonably.

3. On account of the injuries sustained in the accident, the appellant filed the claim petition u/s 166 of the Motor Vehicles Act, before the Tribunal, seeking compensation of a sum of Rs. 2,00,000/- against the Corporation. The said claim petition had come up for consideration before the Tribunal on 19th December, 2012. The Tribunal, after considering the relevant material available on file and after appreciation of the oral and documentary evidence, allowed the claim petition in part, awarding global compensation of a sum of Rs. 20,000/- with interest at 6% per annum from the date of petition till the date of realization. Being dissatisfied with the quantum, of compensation awarded by the Tribunal, the appellant has filed the appeal before this Court, seeking enhancement of compensation.

4. I have gone through the grounds urged in the memorandum of appeal and the impugned judgment and award passed by Tribunal and heard the learned counsel appearing for the appellant.

5. Learned counsel appearing for appellant submits that the Tribunal is not justified in awarding global compensation of Rs. 20,000/- for the reason that as per Ex. P1, Wound Certificate, the appellant has sustained right wrist injury and the Doctor has opined that the said injury is grievous in nature. Further the appellant was in Hospital for a period of two days. Therefore, he submitted that reasonable compensation may be awarded under different heads and the impugned judgment and award may be modified accordingly.

6. After perusal of the impugned judgment and award passed by Tribunal and after hearing the learned counsel for appellant, it reveals that the Tribunal has after assessing the oral and documentary evidence available on file, having regard to the age, avocation, nature of injuries sustained and nature and duration of treatment, has awarded global compensation of a sum of Rs. 20,000/- with interest at 6% per annum from the date of petition till the date of realization. The same in my view is just and proper, for the reason that, the appellant in his examination in chief, has stated that he was in Hospital for two days and that KSRTC has paid the amount. Further, he has not examined any Doctor to show that he has sustained any disability, he has also not produced any medical bills in support of the said injury, nor has he produced the case sheet of the Hospital, where he is stated to have been admitted. He has not even led any evidence. Therefore, the Tribunal has recorded a finding at paragraph 13 of its judgment, observing that looking at the nature of injuries sustained by the appellant and as he has stated that the KSRTC has paid the amount, when he was in the Hospital, and it appears that as POP was applied and as he was directed to appear after 21 days and in the absence of any medical evidence and in view of the payment of money by the KSRTC, the appellant is entitled to global compensation of a sum of Rs. 20,000/-. The said reasoning recorded by Tribunal

for awarding global compensation of Rs. 20,000/- is just and proper and it does not call for interference.

7. Therefore, having regard to totality of the case on hand, I am of the view that the quantum of compensation awarded by Tribunal is just and proper and does not call for interference. For the foregoing reasons, the appeal filed by the claimant is liable to be dismissed as devoid of merits. Accordingly, it is dismissed.

Office to draw award, accordingly.