

(2015) 01 KAR CK 0112
In the Karnataka High Court
Case No : M.F.A. No. 3713 of 2014 (MV)

Sukra Gonda

APPELLANT

Vs

Timmappa M. Gonda

RESPONDENT

Date of Decision : 09-01-2015

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2015) 01 KAR CK 0112

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

Bench : Single Bench

Advocate : H. Pavana Chandra Shetty, for the Appellant

Final Decision : Dismissed

Judgement

N.K. Patil, J.—This appeal by the claimant is directed against the judgment and award dated 22nd March 2014 passed in MVC No. 111/2013 on the file of the Senior Civil Judge, Member, Additional Motor Accident Claims Tribunal, Kundapura, (hereinafter referred to as the "Tribunal"), for enhancement of compensation on the ground that, the compensation of Rs. 15,000/- with interest @ 6% p.a. awarded in favour of the claimant as against his claim for Rs. 5,55,000/-, is inadequate.

2. The appellant claims to be aged about 50 years and working as coolie, earning Rs. 9,000/- per month and hale and healthy prior to the date of accident. That the occurrence of accident at about 10:15 hours, on 16-12-2012, when the appellant was walking on the left side of the mud portion of NH-17, near P.L.D. Bank, Bhatkal town, on account of rash and negligent driving by the rider of Motor cycle bearing Registration No. KA-47/J-5967, which was coming from Turupalli side towards Bhatkal S. Circle side, is not in dispute. Due to the impact, the appellant has sustained injuries and was immediately shifted to Government Hospital, Bhatkal and then to Chinmayi Hospital, Kundapura, where he was admitted and took treatment as in-patient from 16-12-2012 to 20-12-2012.

3. It is the case of the appellant that, due to the injuries sustained in the road traffic accident, he has taken treatment and for the said treatment, he has spent huge amount towards medical expenses and also towards conveyance, nourishing food and attendant charges during treatment period and therefore, he is liable to be compensated reasonably.

4. On account of the injuries sustained in the accident, the appellant filed the claim petition under Section 166 of the Motor Vehicles Act, before the Tribunal, seeking compensation of a sum of Rs. 5,55,000/- against the Insurance Company and another. The said claim petition had come up for consideration before the Tribunal on 22nd March, 2014. 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 Rs. 15,000/- 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.

5. 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.

6. Learned counsel appearing for appellant at the outset vehemently submitted that, the Tribunal grossly erred in awarding global compensation of only a sum of Rs. 15,000/- instead of awarding reasonable compensation under different heads. He further submitted that the appellant was aged about 50 years, working as coolie and earning a sum of Rs. 9,000/- per month and on account of the grievous injuries sustained in the road traffic accident, has spent huge amount towards medical expenses and also conveyance, nourishing food and attendant charges and because of hospitalization, he could not attend to his work for some period. All these aspects of the matter have not been looked into or considered by the Tribunal by awarding global compensation of Rs. 15,000/-. Therefore, he submitted that the impugned judgment and award passed by Tribunal is liable to be modified by enhancing just and reasonable compensation.

7. After hearing the learned counsel appearing for appellant, after perusal of the impugned judgment and award passed by Tribunal, and after due consideration of the entire material available on file, it can be seen that the Tribunal, after assessing the oral evidence of PW 1 and documentary evidence at Exs. P1 to P7, has awarded just and reasonable compensation of Rs. 15,000/- on account of the injuries sustained by the appellant in the road traffic accident.

8. It is significant to note that, as per Ex. P3, wound Certificate, appellant has sustained swelling and tenderness over the left side over the forehead, tenderness over the chest, abrasion over the right knee and all of the said injuries are stated to be simple injuries. Further, it can be seen that he has not produced any discharge summary. A Xerox copy of the discharge summary

produced indicates that he has taken treatment for one day and has not examined the Doctor who treated him nor has produced the medical bills. However, he has contended that he has spent Rs. 15,000/- towards medical expenses and Rs. 15,000/- towards conveyance, nourishing food and attendant charges. But, taking into consideration the fact that the appellant has taken treatment for one day and also presuming that he would have spent some sum towards medical expenses and conveyance, nourishing food and attendant charges, the Tribunal has awarded global compensation of a sum of Rs. 15,000/- for the simple injuries sustained by appellant.

9. In the absence of any documentary evidence, viz. the medical bills, hospitalization receipts, discharge summary, etc., I am of the considered opinion that the Tribunal is justified in awarding global compensation of a sum of Rs. 15,000/- for the simple injuries sustained by the appellant. Hence, interference in the same is uncalled for nor the appellant has made out a good ground to interfere in the well considered judgment and award passed by Tribunal.

10. Therefore, having regard to the facts and circumstances of the case, the appeal filed by appellant is liable to be dismissed as being devoid of merit. Accordingly, it is dismissed.

Office to draw award, accordingly.