

(2012) 06 KAR CK 0054
In the Karnataka High Court
Case No : MFA No. 9815 of 2010 (MV)

Syed Tanveer

APPELLANT

Vs

Bajaj Allianz General Insurance Co. Ltd., The Joint Managing
Director, M/s. Plant Tech Industrial Services Ltd. and Shri
Ismail

RESPONDENT

Date of Decision : 01-06-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2012) 06 KAR CK 0054

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

Bench : Single Bench

Advocate : Shripad V. Shastri, for the Appellant; H.R. Renuka, Advocate for R1,
for the Respondent

Judgement

N.K. Patil

1. This appeal by the claimant is directed against the judgment and award dated 22nd June 2010 passed in MVC No. 3652/2007 by the I Additional Small Cause Judge and Motor Accident Claims Tribunal, Bangalore, (for short, "Tribunal") for enhancement of compensation on the ground that, the compensation of Rs. 1,71,200/- with interest @ 6% p.a. awarded in favour of the claimant as against his claim for Rs. 5,00,000/-, is inadequate. The appellant claims to be aged about 26 years and hale and healthy prior to the date of accident. That the occurrence of accident at about 10:30 P.M, on 04-03-2607, in front of soluru Government Hospital, Soluru, Magadi Taluk, due to rash and negligent driving by the driver of Scorpio bearing No.KA-19/MF-1628, is not in dispute. It is also not in dispute that the appellant has sustained compound comminuted fracture of both bones of right leg and fracture of left clavicle, fixing of external fixator. He also underwent an operation for internal and external fixators. Due to the said injuries sustained in the accident, he was shifted to Sanjay Gandhi Hospital.

2. It is his further case that, on account of the injuries sustained in the accident,

he has undergone severe pain and agony and. 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. The learned counsel for appellant contends that the Tribunal grossly erred in not awarding reasonable compensation towards all the heads and hence, the compensation awarded is liable to be enhanced, by modifying the impugned judgment and award.

4. 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. 5,00,000/- against the respondents. The said claim petition had come up for consideration before the Tribunal on 22nd June, 2010. 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 a sum of Rs. 1,71,200/- under different heads, 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 is in 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 and also Insurer.

6. After careful perusal of the impugned judgment and award passed 1.7;3r Tribunal, it can be seen that, the Tribunal, after assessing the oral and documentary evidence available on file, has erred in not awarding reasonable compensation under all the heads. Admittedly, the appellant was in-patient in the Hospital for a period of nearly a month and must have been advised bed rest and follow-up treatment for a period of three months. During this period, he would have spent reasonable amount towards conveyance nourishing food and attendant charges apart from medical expenses and incidental expenses. He has sustained the injuries as stated above and the Doctor has assessed the permanent disability of 21% to the whole body, but the Tribunal has re-assessed the same at 10%. Further, the monthly income assessed by Tribunal at Rs. 3,000/- is also on the lower side. The appellant being aged about only 26 years, has to endure the permanent disability for the rest of his life and it would be difficult for him to perform his day to day activities, as earlier. Therefore, having regard to the nature of injuries sustained, age and avocation of the appellant and nature and duration of treatment, and also the fact that he cannot to do his work as effectively as he was doing earlier, I deem it fit to award a global compensation of a Sum of Rs. 60,000/-, with interest at 6% per annum, in addition to the compensation awarded by Tribunal. In the light of the facts and circumstances of the case, as stated above, the appeal filed by appellant is allowed in part. The impugned judgment and award dated 22nd June 2010 passed in MVC No.3652/2007 by the I Additional Small Cause Judge and Motor

Accident Claims Tribunal, Bangalore, is hereby modified, awarding compensation of a sum of Rs. 60,000/-, with interest at 6% per annum, from the date of petition till the date of realization, in addition to the compensation awarded by Tribunal.

The first respondent - Insurer is directed to deposit the enhanced compensation of Rs. 60,000/-, with interest thereon at 6% per annum, from the date of petition till the date of realization, within three weeks from the date of receipt of copy of the judgment and award.

On such deposit by the Insurer, the entire sum shall be released in favour of the appellant, immediately.

Office to draw award, accordingly.