

(2014) 11 KAR CK 0311

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 31811/2011 (MV)

The Divisional Controller

APPELLANT

Vs

Pampanna

RESPONDENT

Date of Decision : 18-11-2014

Acts Referred:

Citation : (2014) 11 KAR CK 0311

Hon'ble Judges : A.S. Pachhapure, J

Bench : Single Bench

Advocate : Subhash Mallapur, Advocate for the Appellant; Basavaraj R. Math, Advocate for the Respondent

Judgement

A.S. Pachhapure, J.—The appellant - NWKRTC, challenging the quantum of compensation granted by the Tribunal to the claimant - respondent No. 1 herein for the injuries sustained by him in a motor vehicle accident, has filed this appeal.

2. The facts reveal that on 08.09.2009, while the 1st respondent was proceeding in a Bullock-Cart carrying fodder along with another, the bus bearing No. KA-26/F-672 came from the hind side and hit the Bullock-Cart and thereby, the 1st respondent/claimant suffered grievous injuries. He was admitted in the hospital and suffered permanent disability. Therefore, a claim petition was filed before the Tribunal for compensation towards pain, suffering, mental agony, medical expenses, loss of income etc.

3. During the enquiry, respondent No. 1 herein was examined as PW. 1 and in his evidence, Exs. P1 to P180 were marked. On behalf of the appellant herein, DW. 1 was examined.

4. The Tribunal having held that the accident was due to the rash, "and negligent driving of the bus, held permanent disability of respondent No. 1 at 100% and granted a sum of Rs. 12,18,000/- together with interest at 6% p.a. as compensation on all the heads. Aggrieved by the quantum of compensation granted to the 1st respondent, the present appeal is filed by the NWKRTC.

5. I have heard the learned counsel for both the parties.

6. It is the contention of the learned counsel for the appellant that there is only 50% of the disability with the 1st respondent and the Tribunal was not justified in concluding that the functional disability is to an extent of 100%. Hence, he submits that the grant of compensation is on the higher side. On the other hand, learned counsel for respondent No. 1 supports the judgment and award of the Tribunal.

7. Perusal of the evidence of PW. 1 and the impugned judgment and award reveals that while PW. 1 was examined in the witness box. He was found in critical condition. He had no capacity to stand. He was brought in a chair. He had no ability to pass urine. He had undergone surgery and passing urine through a pipe and the urine was collected in the plastic bag connected with the pipe.

8. The Court also observed that as a person has to be with the appellant and in the circumstances, despite the opinion of the doctor that there was 55% of the disability, considering the functional disability at 100%, the income at Rs. 4,500/- per month and adopting the multiplier of 17 has granted a sum of Rs. 9,18,000/- as compensation towards the loss of future earning capacity. "It has granted other compensation towards pain and suffering, medical and incidental expenses and loss of amenities.

9. On perusal of the material placed on record in the context of the very observation made by the learned Member of the Tribunal, I am of the opinion that the compensation awarded by the Tribunal is just and reasonable. It cannot be said by any stretch of imagination that the amount awarded to respondent No. 1 is on the higher side.

Consequently, the appeal fails and is accordingly dismissed.

No costs.

The amount in deposit be transmitted to the Tribunal.

In view of dismissal of the appeal, I.A. No. 2/2011 filed for stay does not survive for consideration and is accordingly rejected.