

(2012) 01 KAR CK 0251

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 8955 of 2009 (MV)

The Oriental Insurance Co. Ltd.

APPELLANT

Vs

Sri Ramesh

RESPONDENT

Date of Decision : 05-01-2012

Acts Referred:

Citation : (2012) 01 KAR CK 0251

Hon'ble Judges : Ravi Malimath, J

Bench : Single Bench

Advocate : C.R. Ravishankar, for the Appellant; Shripad V. Shastri, Advocate for R1, M/s. Law Men's Company, Advocates for R2, for the Respondent

Final Decision : Dismissed

Judgement

Ravi Malimath

1. Aggrieved by the Judgment & award dated 30.06.2009 passed in MVC. No. 5717/2008 by the VI Additional Judge, Court of Small Causes, Member, MACT, Metropolitan Area, Bangalore, (SCCH.No.2), the Insurance Company has filed the present appeal seeking reduction in the quantum of compensation awarded. The Tribunal by the impugned Judgment & award, granted a sum of Rs.4,79,000/ along with interest at 6% per annum from the date of petition till realisation.

2. The learned counsel appearing for the appellant submits that the said amount is excessive. He contends that there is a delay of 18 days in lodging the complaint with the police and hence the entire case of the claimant should be disbelieved. He further contends that the amount awarded under various heads is excessive and requires reduction.

3. Heard the learned counsel for the appellant. The counsel for the respondent is absent.

4. The Tribunal granted compensation as follows:-

Pain & Sufferings

Rs. 45,000/-

Food & Nourishment

Rs. 4,000/-

Attendant Charges

Rs. 4,000/-

Traveling expenses

Rs. 3,000/-

Medical Expenses

Rs.1,30,733/-

Loss of future income

Rs.2,38,392/-

Loss of earnings

Rs. 24,000/-

Loss of amenities

Rs. 30,000/-

Total Rounded off

Rs.4,79,175/-

Rs.4,79,000/-

So far as quantum is concerned the same would have to be reckoned with reference to the medical evidence on record. The Doctor has narrated that in view of the injury suffered there is a disability of 47.3% of the whole body. Nothing worthwhile has come about in the cross-examination to disbelieve the evidence of the Doctor. Under these circumstances, the amount awarded in view of the disability of 47.3% suffered by the claimant and when the income is taken as notional income the maximum amount could be Rs.3,000/- per month. I do not find any error committed by the Tribunal in arriving at the said figure towards loss of future income. So far as other heads of income are concerned the same are just and reasonable and not excessive as pleaded by the appellant's counsel.

5. The plea that the complaint has been lodged 18 days after the date of the accident and therefore the case of the claimant should be rejected on that ground alone is unsustainable. The delay in lodging the complaint could be for various reasons. However, the said reasons cannot under any circumstance negate the injuries and the treatment undergone by the claimant for which substantial material has been produced by them. Hence, the contention of delayed complaint is unsustainable and rejected. Therefore, for the aforesaid

reasons, the appeal being devoid of merits is rejected. The amount in-deposit shall be transmitted to the Tribunal for necessary orders.