

(2011) 10 KAR CK 0006
In the Karnataka High Court
Case No : M.F.A. NO. 8632 of 2007 (MV)

T.K. Lakshmegowda

APPELLANT

Vs

M/s. Oriental Insurance Company Limited and Sri. M.D. Murthy

RESPONDENT

Date of Decision : 15-10-2011

Acts Referred:

Citation : (2011) 10 KAR CK 0006

Hon'ble Judges : K.L. Manjunath, J;B. Manohar, J

Bench : Division Bench

Advocate : S. Srishaila, Advocate For R-1 and M/s. Champs Associates, Advocates For R-2, for the Respondent

Final Decision : Allowed

Judgement

1. The Appellant being not satisfied with the compensation awarded to him by the MACT, Bangalore in MVC No. 482/2005 dated 03.10.2006 has preferred this appeal for enhancement. On 18.09.2004 at about 5.00 p.m., while the claimant was walking on the left side of Kanakapura-Sangam Road, near Thigalara Hosahalli Village, the driver of a motor cycle bearing registration No.KA-05-ES-9318 driving in rash and negligent manner clashed against the appellant. As a result he sustained compound fracture of both the bones of right leg. He was immediately admitted to the hospital. He was an inpatient at Sanjaygandhi Hospital, Bangalore for 25 days. He was a driver by profession. The doctor has assessed disability at 20% to the right lower limb and 8% to the whole body. The Tribunal awarded a sum of Rs. 25,000/- towards Pain and Suffering, Rs. 10,000/- towards loss of amenities in life, Rs. 10,000/- towards Medical Expenses, Ra. 5,000/- towards conveyance and attendant charges, Rs. 3,000/- towards loss of income during laid up period and Rs. 21,600/- towards Future Loss of Income, in all, a total compensation of Rs. 74,600/-. Being not satisfied with the same the present appeal is filed.

2. After hearing the parties, we have to notice that the compensation awarded to

the claimant under the head "Pain and Suffering" in a sum of Rs. 25,000/- is on lower side considering the fracture of both bones, right lower limb and total number of days of hospitalisation. Therefore we are inclined to award a sum of Rs. 10,000/- in Addition to what has been awarded under the said head. The Tribunal has awarded a sum of Rs. 3,000/- towards Loss of Income during laid up period. Even if we consider his income at Rs. 4,000/- per month, he is entitled for a further sum of Rs. 5,000/- under the aforesaid head. The Tribunal without considering the disability assessed by the doctor, awarded a sum of Rs. 21,600/- towards Future Loss of Income which according to us is on lower side. By considering his income at Rs. 4,000/- per month and disability to the whole body at 8% and by applying the multiplier of 18 he is entitled for a sum of Rs. 69,120/- towards Future Loss of Income and by deducting Rs. 21,600/- awarded by the Tribunal, he is entitled for art enhanced compensation of Rs. 47,520/- under the head Loss of Amenities in life. The Appellant was an young man of 20 years and was unmarried. His right lower limb is disabled by 20%. Therefore we are inclined to award a further sum of Rs. 30,000/- under the head Loss of Amenities in life and Loss of marriage prospects. Thus in all, the appellant is entitled for an enhanced compensation of Rs. 92,520/- and the same is rounded of to Rs. 92,500/-. In the result, for the foregoing reasons, we make the following :

ORDER

- (i) The Appeal is allowed in part
- (ii) The appellant is entitled for an enhancement of compensation of Rs. 92,500/- with interest at 6% per annum from the date of petition till the date of payment,
- (iii) Out of the enhanced compensation, a sum of Rs. 70,000/- with appropriate Interest accrual thereon is ordered to be deposited in the name of the appellant for a period of five years and he is entitled to withdraw the periodical interest. The rest of the amount be released to the claimant.