
(1990) 07 KAR CK 0083
In the Karnataka High Court

Venkataramana Reddy

APPELLANT

Vs

Karnataka State Road Transport Corporation

RESPONDENT

Date of Decision : 02-07-1990

Acts Referred:

Motor Vehicles Act, 1988 — Section 110 A

Citation : (1991) 1 ACC 516

Hon'ble Judges : M. Ramakrishna, J;Chandrakantharaj Urs, J

Bench : Division Bench

Judgement

Chandrakantharaj, J.—This is an appeal by the victim of an accident involving two motor vehicles. The appellant was travelling on a moped bearing No. CKJ 5706 from Jayanagar side to Madiwala side near Old check post at Bangalore. The bus bearing registration No. CAF 174 belonging to the respondent-Karnataka State Road Transport Corporation, came from wrong side in a rash and negligent manner at great speed and dashed against the moped causing injuries to the appellant. The moped was damaged.

2. The appellant presented a petition u/s 110-A of the Motor Vehicles Act, claiming compensation from the respondent-Corporation in a sum of Rs. 5, 00, 000/-, which included cost of medicine, food, nourishment and travelling expenses, services rendered by relations, damage to clothes, damage to moped, loss of salary and loss of consortium. The appellant on the date of the petition or accident was about 35 years old. He was working as plant operator in Bangalore dairy getting a salary of Rs. 1, 300/- per month. The claim was resisted by the respondent. It was alleged by the respondent that it was the moped rider who was riding his vehicle rashly and negligently without observing traffic rules and therefore, he became panicky, lost presence of mind and the moped skidded and fell down on the road and he sustained injuries on that account. It further pleaded that the amount claimed was highly exaggerated, arbitrary, excessive and speculative. Therefore, it pleaded for the dismissal of the petition.

3. On such pleadings, the Tribunal framed the following issues:

1) Does petitioner prove that he sustained injuries in a motor accident that took place on 16-10-1987 at about 12-15 p.m. on Banneghatta road, as a result of rash and negligent driving of B.T.S. bus No. CAF174?

2) Does respondent prove that the accident was on account of rash and negligent driving of moped CKJ 5706 by the petitioner himself?

3) Is the petitioner entitled for compensation, if so, to what amount and from whom?

4. The appellant examined himself as P.W.1 and examined one Dr. Vikram Keshap, Head of the Department of Neuro-Surgery, St. John's Medical College, as P.W.2. The appellant in his evidence stated that the bus came at full speed and there was no negligence on his part while crossing the intersection and it was the bus which came without taking due precaution while approaching the intersection which resulted in the accident. On account of the collision he fell down from the moped and suffered head injuries and became unconscious. He did not remember who took him to the hospital. P.W.2 stated these examined the appellant on 17-10-1987 and the case history shows that the accident took place on 16-10-1987. Therefore, the Tribunal came to the conclusion that at about 12-15 p.m. on 16-10-1987 on account of the negligence of the bus driver, who is the employee of the respondent-Corporation, the accident took place. The appellant further claimed that he was absent from duty for two months and that he sustained fracture of skull bone and several injuries on nose, right arm and left side of the neck. That has not been fully corroborated by the evidence of P.W.2, who according to his examination on 17-10-1987 observed that the appellant was suffering from cerebral concussion and compound fracture of the skull and subcutaneous, emphysema. His diagnosis was confirmed by x-ray which is marked as Ex. P. 15. Ex. P.14 was the admission record. They supported the case of the appellant that he suffered head injury resulting in concussion, fracture of the frontal bone. The appellant was always treated as an out-patient. The doctor has stated that the appellant was taking regular treatment as out-patient even as late as 2-2-1989. The appellant was found to be suffering from impairment of memory of recent events. P.W.2, however, stated that the fracture would heal within six weeks. He also stated that if the appellant falls again, it would again result in fracture. But, P.W.2 has emphatically stated that there is no physical disability suffered by the appellant. The appellant was getting a salary of Rs. 1, 300/- per month. Having regard to the totality of the evidence of P.Ws. 1 and 2 the Tribunal awarded a sum of Rs. 25, 000/- for pain and suffering on account of the injuries sustained by him. The appellant did not produce any proof to show loss of leave and absence from work to claim loss of salary as additional compensation. On that account no compensation was awarded by the Tribunal. In regard to claim of expenses only a few bills were shown and in that behalf a sum of Rs. 2, 000/- was awarded as cost of treatment and other expenses incidental thereto including medicine, conveyance and nourishment. Thus a total compensation of Rs. 27, 000/- was awarded with interest at 9 per cent per

annum. The appellant aggrieved by the same has preferred this appeal.

5. Before us it has been contended by Mr. A.K. Bhat, learned Counsel for the appellant, that the appellant can no longer ride a motor bicycle or moped as he still suffers from giddiness and as per the testimony of the doctor he has lost memory of recent events and also lost his ability to focus. In fact no elicitation has been made as to what exactly that evidence means. It is not the case of the appellant that he has not been able to perform his job at the dairy plant where he is working. Therefore, mere statement of loss of memory of recent events, does not convey any meaning to us. In that view of the matter, the Tribunal had no choice but to make a general award taking the totality of the circumstances and the nature of the injury sustained by the appellant and the damage to the vehicle. Therefore, in the absence of cogent evidence, we find ourselves unable to interfere with the award under appeal. We, therefore, dismiss the appeal.