

(2017) 03 KAR CK 0056
In the Karnataka High Court
Case No : MFA No. 6316 of 2012

Venkatesh Venktaramana

APPELLANT

Vs

S. Selva Raj

RESPONDENT

Date of Decision : 17-03-2017

Acts Referred:

Motor Vehicles Act, 1988 — Section 168

Citation : (2017) AAC 1076

Hon'ble Judges : B. Manohar, J.

Bench : Single Bench

Advocate : Sri. M.R. Kumaraswamy, Advocate, for the Appellant; Notice Dispensed With V.O. Dated 29.01.2014, for the Respondent No. 1; Sri. Gangadhar Sangoli, Advocate, for the Respondent No. 2

Final Decision : Allowed

Judgement

B. Manohar, J.—Appellant is the claimant, being not satisfied with the quantum of compensation awarded in the judgment and award dated 9-11-2011 made in MVC No.2691/2010 passed by the Motor Accident Claims Tribunal, Bengaluru (hereinafter referred to as "the tribunal" for short), he has filed this appeal seeking for enhancement of compensation.

2. The appellant filed the claim petition contending that on 14-2-2010, while he was waiting for his wife in the bus stop, sitting on his motor cycle, near 24th main road, J.P.Nagar, Bengaluru, at that time, the rider of the motor cycle bearing registration No.KA-03-Y-752, ridden in a rash and negligent manner came and dashed against the motor cycle of the claimant. Due to the impact, he fell down and sustained grievous injuries. Immediately after the accident, he was shifted to Bengaluru hospital, Bengaluru, wherein, he took treatment as an inpatient for a period of two days and POP casting was also done. In the accident, he has sustained fracture of both bones of left leg. Prior to the accident, he was working as a tailor and earning a sum of Rs.6,000/- per month. Due to the injuries he sustained in the accident, he became permanently

disabled to do the work as he was doing earlier. Hence, he sought for a compensation of Rs.5,00,000/-.

3. Insurance company defended the case by filing written statement.

4. After trial, the tribunal held that due to the actionable negligence on the part of rider of the offending vehicle, the accident occurred and the claimant has sustained injuries. Hence, he is entitled for compensation.

5. With regard to the quantum of compensation is concerned, except production of wound certificate and medical bills for a sum of Rs.550/-, no document has been produced to substantiate the claim of the claimant. the claimant has not chosen to examine the doctor. Accordingly, the tribunal on appreciating the materials available on record, awarded the compensation of Rs.50,500/- with interest at 6% per annum. Being dissatisfied with the quantum of compensation, the claimant has preferred this appeal.

6. I have carefully considered the arguments addressed by the learned counsel for the parties and perused the judgment and award and oral and documentary evidence.

7. The occurrence of the accident and injuries sustained by the claimant is not in dispute. The dispute is only with regard to the quantum of compensation is concerned. In the accident, the claimant has sustained fracture of both bones of left leg and he has taken treatment as an inpatient in the Bengaluru hospital. The tribunal has awarded meager compensation solely on the ground that the Doctor who treated the claimant has not been examined to assess the disability. Even though, the claimant has not produced any documents and not examined the doctor, appreciating the materials available on record the tribunal ought to have awarded reasonable compensation.

8. At the time of the accident, the claimant was aged about 35 years and working as a tailor. In view injuries to both bones of right leg, he became disabled to do his work. A sum of Rs.20,000/- awarded towards pain and suffering, a sum of Rs.5,000/- towards attendant charges, food and nourishment is on the lower side. Taking into consideration all these aspects of the matter, it is appropriate to award another sum of Rs.50,000/- with interest at 6% per annum in addition to a sum of Rs.50,500/- awarded by the tribunal.

9. Accordingly, I pass the following:

ORDER

10. The appeal is allowed in part. The judgment and award made in MVC No.2691/2010 dated:9-11-2011 passed by the Motor Accident Claims Tribunal, Bengaluru is modified and the claimant is entitled for enhanced compensation of Rs.50,000/- with interest at 6% per annum in addition to a sum of Rs.50,500/- awarded by the tribunal.