

Rahul Vs National Insurance Company Ltd. And Another

Court: Supreme Court Of India

Date of Decision: Aug. 9, 2024

Hon'ble Judges: Sudhanshu Dhulia, J; R. Mahadevan, J

Bench: Division Bench

Advocate: Ganesh Kumar R.

Final Decision: Allowed

Judgement

R. Mahadevan, J

1. Delay condoned.

2. Leave granted.

3. In the present case, the appellant challenges the final judgment dated 13.11.2018 passed by the High Court of Karnataka, Dharwad Bench,

(hereinafter shortly referred to as ""the High Court""), thereby partly allowing MFA No.103118/2014 (MV), filed by the Respondent,

No.1 (hereinafter referred to as ""the insurance company"").

4. Originally, the appellant filed a claim petition in MAC No.1587 of 2013 before the Senior Civil Judge & MACT at Raibag (hereinafter shortly

referred to as ""the Tribunal""), seeking a compensation of Rs.20,00,000/- for the injuries sustained by him in a motor accident that had occurred on

27.01.2013, while he was travelling as a pillion rider in the motor cycle bearing registration No.KA-23/EC-6369 insured with the insurance company.

Based on the oral and documentary evidence, the Tribunal awarded a sum of Rs.5,38,872/- along with interest at 6% p.a. from the date of petition till

deposit, as compensation payable to the appellant, after taking into account the disability sustained by him at 25%. Aggrieved by the same, the

insurance company filed an appeal in MFA No.103118 of 2014 (MV) before the High Court.

5. After hearing both sides, the High Court re-assessed the compensation by reducing it to Rs.4,74,072/- by taking into consideration, disability only at

20% and allowed the appeal in part, by the final judgment dated 13.11.2018, which is under challenge before us.

6. The learned counsel for the appellant, drawing the attention of this court to Exs.P56 to 60, medical records pertaining to the appellant, submitted that

the appellant sustained three injuries viz., fracture of right radius, fracture of left radius and fracture of styloid process of ulna, for which, he had

undergone surgery and plates and screws were implanted in his both hands. The doctor N.Y. Joshi gave Ex.P57, disability certificate to the effect that

the appellant suffered 50% disability, as a whole. Based on the same, the Tribunal determined the compensation under the head 'Loss of future

income' by taking into account the disability at 25%. However, the High Court re-determined the compensation by reducing the disability suffered by

the appellant to 20%, by observing that the doctor who issued the disability certificate had not been examined before the Tribunal, which is erroneous.

It is also submitted that the appellant, being an agriculturist, is unable to do agricultural operations, due to the disability suffered by him. Therefore, the

learned counsel sought our interference in the judgment passed by the High Court and thereby enhance the compensation payable to the appellant.

7. On the other hand, the learned counsel for the insurance company submitted that the High Court has awarded a just and fair compensation to the

appellant, considering the facts and circumstances of the case and hence, prayed for dismissal of this appeal.

8. We have heard the learned counsel for the parties and perused the record.

9. The only issue that arises for our consideration is, whether the High Court is right in reducing the percentage of disability suffered by the appellant

from 25% as fixed by the Tribunal, to 20% while determining the compensation payable to him.

10. The factum of accident and the involvement of the motorcycle insured with the insurance company, are not disputed. From a perusal of the

records, viz., Exs.P56 to P60 - medical records of the appellant, more particularly, Ex.P56 wound certificate, it is evident that the appellant sustained

the following injuries in the accident:

(i) Displaced fracture upper 1/3rd of the shaft of right radius and ulnar shafts and bone of the right forearm.

(ii) Fracture of ulnar styloid and evidence of angulated fracture of distal end of left radius.

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Further, for the above injuries, the appellant underwent a surgery, in which, plates and screws were implanted in his hands. As per Ex.P57 disability

certificate issued by the doctor, N.Y. Joshi, the appellant suffered 50% permanent disablement and the said doctor was also examined as PW2.

Considering all these oral and documentary evidence, the Tribunal has taken the disability of the appellant only at 25% and determined the

compensation payable to him. Without assigning plausible reason, the High Court re-assessed the compensation by reducing the disability suffered by

the appellant to 20%. We are of the view that the reduction of compensation was not required, particularly, when there is no basis in support thereof.

Therefore, the judgment passed by the High Court is liable to be interfered with.

11. Accordingly, the impugned judgment dated 13.11.2018 passed by the High Court in MFA No.103118 of 2014 (MV) is set aside and the judgment

dated 28.06.2014 passed by the Tribunal in MAC No.1587 of 2013 fixing the disability of the appellant at 25% is restored. The insurance company is

directed to deposit the entire compensation along with interest as determined by the Tribunal, after adjusting the amounts already deposited, before the

Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant is permitted to

withdraw the same.

12. This Civil Appeal is allowed.