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(2016) AAC 2490

KARNATAKA HIGH COURT

Case No: MFA No. 2669 of 2011 (MV)

Basil Paulose APPELLANT

Vs

Venkatesh N. Rao RESPONDENT

Date of Decision: July 19, 2016

Acts Referred:
Motor Vehicles Act, 1988 - Section 166, Section 168, Section 173

Citation: (2016) AAC 2490

Hon'ble Judges: Mrs. S. Sujatha, J.

Bench: Single Bench

Advocate: Sri. H.S. Lingaraj, Advocate, for the Respondent No. 2; Ravi Law Assts, for the Respondent No. 1; Sri. M.N. Narendra, Advocate, for the Appellant

Final Decision: Allowed

Judgement

Mrs. S. Sujatha, J. - This appeal is directed against the Judgment and Order passed by the Motor Accident Claims Tribunal, Bangalore, [the

"Tribunal", for short] in MVC No. 1480/2009.

2. Briefly stated the facts are:

That the appellant filed a claim petition before the Tribunal seeking compensation for the accidental injuries sustained by him in a motor vehicle

accident which occurred on 16.2.2009 owing to actionable negligence of the driver of the Santro Xing XL car bearing registration No.K.A. 05

MD 7310. The respondents contested the matter. After evaluating the evidence on record, the Tribunal awarded total compensation of

Rs.2,09,2.00/- with interest at 6% per annum. Being dissatisfied, the appellant is before this Court seeking enhancement of compensation.

3. Learned Counsel appearing for the appellant, would contend that the appellant was working as an Application Engineer at Mahaveer Infosys

Limited, Bengaluru and was aged about 25 at the time of the accident. He was earning Rs.20,000/- plus incentives ranging from Rs.6,000/- to

Rs.8,000/- per month. The appellant has sustained fracture of both bones of left leg. He was admitted to Deepak Nursing Home, Bangalore and

later he was shifted to Maharaja Agrasena Hospital, Bangalore, as an inpatient from 16.2.2009 to 19.2.2009. Due to the grievous injuries

sustained by him, the claimant sustained scars. He has to suffer with the scars all along his life. The fracture sustained by him in the left leg definitely

reduces his functional disability which has a direct impact on his earning capacity. The Tribunal without appreciating these vital aspects awarded

meagre compensation of Rs.2,09,200/-. Accordingly, he seeks for enhancement of the compensation.

4. Per contra, learned Counsel appearing for the respondent-Insurer justifying the impugned judgment and order would contend that the Tribunal

has elaborately considered the evidence on record and awarded the just compensation which cannot be found fault with.

5. Having heard the learned Counsel for the parties and perusing the material on record, it emerges that the appellant was aged about, 25 at the

time of the accident and he was working as an Application Engineer at Mahaveer Infosys Limited, Bengaluru. Exhibit.P8 - pay slip produced by

the appellant shows net salary of the appellant as Rs. 17,751/-. No evidence is produced by the appellant that due to the accidental injuries the

appellant has suffered functional disability and he is incapacitated to work in the same position in which he was working prior to the accident. In the

absence of cogent material evidence placed" on record by the appellant, the Tribunal denied to award compensation towards loss of" future

income which is justifiable and does not merit interference. As regards the compensation awarded towards pain and suffering, considering the

fracture of both bones of left leg-and the related pain and suffering undergone by the appellant, it would be appropriate to enhance the

compensation to Rs.40,000/-. It is obvious that the appellant has to forgo many of the amenities in life due to the effect of fracture of both legs and

grievance by him in the accident. Considering the young age of the appellant and the impact of the accidental injuries for the rest of his life, it would

be appropriate to enhance the compensation to Rs.40,000/- towards loss of amenities of life. A sum of Rs.5,000/- is awarded by the Tribunal

towards the compensation of disfigurement. Considering the nature of gravity of the injuries sustained by the appellant and the disfigurement which

he has to face for his entire life, it would be appropriate to award compensation of Rs. 10,000/- towards the compensation for disfigurement. In all

other respects, die compensation awarded by the Tribunal remains unaltered.

6. Thus, the compensation awarded by the Tribunal is modified as under:

Sl. No. Particulars Amount [in Rs.]

1 Pain and sufferings 40000

2 Loss of amenities of life 40

3 Loss of income during laid tip period 53300

4 Medical expenses 75900

5 Disfigurement 10000

Attendant charges, food and nourishment and conveyance

6 15000

charges

TOTAL 2,34,200

7. Thus, the compensation awarded by the Tribunal is modified to Rs.2,34,200/- as against Rs.2,09,200/-. The awarded amount shall carry

interest at 6% per annum from the date of the petition till the realization.

8. The appeal stands allowed to the extent indicated above.