
(2017) 04 KAR CK 0022
KARNATAKA HIGH COURT
Case No: 4572 of 2014

RAMESH ALIAS
RAMESH GOWDA

APPELLANT

Vs

ANNAMALAI

RESPONDENT

Date of Decision: April 3, 2017

Citation: (2017) 04 KAR CK 0022

Hon'ble Judges: B Manohar

Bench: SINGLE BENCH

Final Decision: Allowed

Judgement

1. The appellant is the claimant being not satisfied with the quantum of compensation awarded in judgment and award dated 3rd October, 2013

made in M. V. C. No. 3485/2013 by the Court of Small Causes and MACT, Bangalore City, (hereinafter referred to as ""the Tribunal"" for short),

has filed this appeal seeking for enhancement of compensation.

2. The appellant filed the claim petition contending that on 8-12-2012 at about 7.00 p.m. while he was proceeding on Magadi-Banglore Main

road near Machohalli gate as a pedestrain on the left side of the road, at that time, the Motor Cycle bearing Reg. No. KA. 02. HS. 4196 ridden

by its rider came in a rash and negligent manner and dashed against the claimant. Due to which, he fell down and sustained grievous injuries.

Immediately, after the accident, he was shifted to Sri. Lakshmi Multi Specialty Hospital, Sunkadakatte. Thereafter, he was shifted to Victoria

Hospital, Bangalore. He took treatment as inpatient for a period of 50 days. The Madanayakanahalli Police have registered a case after

investigation. Prior to the accident, he was working as a Security Guard and earning Rs. 6,000/- per month and at the time of accident he was

aged about 42 years. Hence, sought for compensation of Rs. 10.00/- lakhs.

3. In response to the notice issued by the Tribunal, both the respondent remained ex parte.

4. On the basis of pleadings of the claimant, the Tribunal framed necessary issues.

5. In order to prove his case, claimant got examined himself as P. W. 1 and got marked the documents as Ex. P1 to Ex. P15. The Doctor who has

treated the claimant is examined as PW2.

6. The Tribunal, after appreciating the oral and documentary evidence let in by the claimant and taking into consideration the copy of IMV report,

copy of the complaint and the charge-sheet, held that due to the actionable negligence on the part of the offending vehicle accident occurred,

claimant sustained injuries and he is entitled for compensation. With regard to the quantum of compensation is concerned, no document is

produced to sustained that he was earning Rs. 6,000/- per month. Therefore, the Tribunal has taken the income of the claimant at Rs. 4,500/- per

month. The Doctor, who has treated the claimant has assessed the disability to an extent of 48% of the lower limb in view of the fracture of both

the legs sustained by the claimant in the accident. The Tribunal, taking into consideration the disability to an extent of 12% to the whole body,

awarded a sum of Rs. 84,240/- towards loss of future income. The claimant is in hospital for a period of 50 days. The Tribunal awarded a sum of

Rs. 70,000/- towards pain and sufferings, Rs. 18,000/- towards loss of income during treatment period, Rs. 15,450/- towards medical expenses,

Rs. 30,000/- towards loss of amenities, Rs. 10,000/- towards attendant charges, nourishing food and conveyance, Rs. 20,000/- towards future

medical expenses and in all, Rs. 2,47,690/- with 6% interest. The claimant being not satisfied with the quantum of compensation awarded by the

Tribunal filed this appeal, seeking enhancement of compensation.

7. Sri. Shripad V. Shastri, Advocate appearing for the appellant contended that the quantum of compensation awarded by the Tribunal is contrary

to law. The accident occurred in the year 2012, even for daily wage employees working in various Government department, the income is taken at

more than Rs. 6,000/- and therefore, the income of Rs. 4,500/- per month taken by the Tribunal is on the lower side. Further, he submitted that in

the accident, claimant has sustained fracture of tibia and fibula of both the legs. Internal fixation has been made by surgery and also external

fixation to another leg. Even though, he has undergone surgery, in view of the mall union he could not stand without the assistance of clutches. Even

as on today also, without the assistance of the other he could not stand. Hence, the compensation awarded towards loss of future income, towards

loss of income during laid up period and also towards loss of amenities to life is on the lower side. Hence, sought for enhancement of

compensation.

8. On the other hand, Sri. Ashok N. Patil, the Advocate appearing for 2nd respondent argued in support of the judgment and award and

contended that the Tribunal taking into consideration the injuries sustained and suffering undergone by the claimant, has awarded just and

reasonable compensation and sought for dismissal of the appeal.

9. I have carefully considered the arguments addressed by the learned counsel appearing for the parties. Persuaded the judgment and award, oral

and documentary evidence adduced by the parties.

10. The dispute in this appeal is only with regard to quantum of compensation is concerned.

11. In the road traffic accident occurred on 8-12-2012 due to motorcycle, the claimant has sustained following injuries :

(1) Contusion over the right leg on lateral aspect in the middle 1/3rd, measuring 4x2 cms, X-ray of right leg shows fracture of tibia and fibula in the

middle 1/3rd.

(2) Contusion over the left leg anterior aspect in the middle 1/3rd, measuring 3x2 cms, X-ray of left leg shows fracture of tibia and fibula in the

middle 1/3rd.

(3) Abrasion over the right forearm on lateral aspect in the proximal 1/3rd, measuring 1x1 cms.

12. The Doctor who has treated the claimant has assessed that, injury Nos. 1 and 2 are grievous in nature and injury No. 3 is simple in nature. He

has undergone surgery and external fixation has been made in the right leg and closed reduction of internal fixation had been made to the left leg.

He was discharged from the hospital on 29-1-2013. Thereafter, he has taken the follow-up treatment. He has out of employment for a period of

six months. As stated earlier, the accident occurred in the year 2012. Income of Rs. 4,500/- per month taken by the Tribunal is on the lower side.

Even for daily wage employees working in various Government departments as well as Lok-adalath, income is being taken at Rs. 6,000/- per

month. Though the Doctor has assessed the disability to an extent of 48% to both the limbs, the disability of 12% to the whole body taken by the

Tribunal is on the lower side. In view of the fracture of tibia and fibula of both the legs, he could not stand without the help of clutches. Hence,

taking the income of the claimant as Rs. 6,000/- per month with disability to an extent of 20% to the wholebody, the claimant is entitled to a

enhanced sum of Rs. 1,02,960/- ($6000 \times 12 \times 13 \times 20\% = 1,87,200 - 84,240 = 1,02,960/-$) towards future loss of income. Taking the income at

Rs. 6,000/- per month, claimant is entitled to a sum of Rs. 18,000/- towards loss of income during the laid up period in addition to Rs. 18,000/-

awarded by the Tribunal. Further the claimant has to suffer the disability of 48% to particular limb throughout his life and therefore, he is entitled for

another Rs. 20,000/- towards loss of amenities towards life. Further, the claimant is in the hospital for a period of 50 days and thereafter, follow

up treatment is also taken up for the period of six months and therefore, he is entitled for another Rs. 10,000/- towards attendant charges,

nourishment and conveyance. In all, claimant is entitled to the enhanced compensation of Rs. 1,48,960/-, which is rounded off to Rs. 1,50,000/-, in

additional to Rs. 2,47,690/- awarded by the Tribunal with 6% interest.

Accordingly, I pass the following :

ORDER

The appeal is allowed in part.

The judgment and award dated 3rd October, 2013 made in M. V. C. No. 3485/2013 by the Court of Small Causes and MACT, Bangalore, is

hereby modified.

The claimant is entitled to enhanced compensation of Rs. 1,50,000/- with 6% interest p.a. in addition to Rs. 2,47,690/- awarded by the Tribunal.