

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 7TH DAY OF JANUARY 2011

BEFORE

THE HON'BLE MR.JUSTICE N.ANANDA

MISCELLANEOUS FIRST APPEAL NO.754 OF 2010 (MV)

Between:

N.Guruswamy,
S/o Nanjegowda,
Aged about 33 years,
Resident of Bydarahalli Village,
Shanthigrama Hobli,
Hassan Taluk & District. ... Appellant

(By Sri.Chethan B, Advocate)

And:

1. Rangaswamy
S/o Rangegowda
Major, Badge No.2028
Driver, K.S.R.T.C.,
Channarayapatna Depot,
Begur Road,
Channarayapatna Taluk,
Hassan District.
2. The Divisional Controller,
K.S.R.T.C., B.M. Road,
Hassan - 573 201. ... Respondents

(Sri.F.S.Dabali, Advocate for respondent No.2
Respondent No.1 - Notice dispensed with)

This Miscellaneous First Appeal is filed under Section 173(1) of MV Act against the Judgment and Award dated 01.03.2008 passed in MVC No.1607/2006 on the file of Presiding Office, Fast Track Court-3 & Additional MACT, Hassan, partly allowing the claim petition for compensation and seeking enhancement of compensation.

This Miscellaneous First Appeal coming on for admission this day, the Court made the following:-

J U D G M E N T

The matter is listed for admission. With the consent of learned counsel for the parties, the matter is taken up for final disposal.

2. This is a claimant's appeal for enhancement of compensation.

3. I have heard Sri.Chethan B, learned counsel for the claimant and Sri.F.S.Dabali, learned counsel for KSRTC.



4. The Tribunal has accepted the medical records and evidence of PW3 – Dr.Shankar to hold that the claimant had suffered fracture of right tibia associated simple injuries. The fracture was reduced by closed reduction. As per evidence of PW3 – Dr.Shankar, claimant suffers from restricted movements of right knee joint and permanent physical disability is assessed at 20%. The Tribunal has taken permanent disability with reference to the whole body at 6%. The claimant was aged about 30 years at the time of accident. The Tribunal instead of adopting 17 multiplier has adopted 16 multiplier to assess the loss of earning capacity and the future loss of earning. Therefore, compensation of ₹24,000/- awarded under the head loss of earning capacity and future loss of earning is enhanced to ₹25,500/-. The Tribunal has awarded compensation of ₹3,000/- towards loss of amenities and a sum of ₹5,000/- towards loss of earnings during laid up period. In my considered opinion, the compensation awarded towards loss of amenities and also towards loss of earning during

n. Shankar

laid up period is inadequate. The claimant was aged about 30 years he was sustaining by manual work. Therefore, I award a sum of ₹10,000/- towards loss of earning during laid up period. The claimant has to suffer from restricted movements of his right knee during the rest of his lifetime. Therefore, I award a sum of ₹25,000/- towards loss of amenities and enjoyment of life. The Tribunal has not awarded attendant and conveyance charges. Therefore, a sum of ₹1,500/- is awarded under the head attendant and conveyance charges. Thus claimant is entitled to compensation of ₹87,000/-. In the result, I pass the following

ORDER

Appeal is accepted in part. The impugned order is modified. Compensation of ₹57,000/- awarded by the Tribunal is enhanced to ₹87,000/-, which shall carry interest at the rate of 6% from the date of petition till the date of realisation excluding the delay period of 587 days. The rest of the impugned award as it relates to rate of interest



and liability of respondents is confirmed. The payment and investment of the enhanced compensation shall be in the ratio evolved by the Tribunal. Parties to bear their costs.

Sd/-
JUDGE

AHB