

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated the 1st day of July 2009

: B E F O R E :

THE HON'BLE MR.JUSTICE : V.JAGANNATHAN

MISCELLANEOUS FIRST APPEAL No. 6554 / 2007 (MVC)

BETWEEN :

Ravikumar.G,
S/o Gopalappa, Aged about 35 years,
R/o Gubbalala Grama,
Subramanyapura Post, Bangalore-62.

...Appellant

(By Sri H.K.Basavaraj, Advocate.)

A N D :

1. The National Insurance Co. Ltd.,
By its Manager, Regional Office,
No.144, Shubharam Complex,
Madhura coats Bldg, M.G.Road,
Bangalore-1.
2. T.Kumar,
S/o Thammaiah.M.N, Aged Major,
R/o No.362/A, 3rd floor,
Himani Complex, 80 feet road,
Opp. to ICICI Bank,
R.T.Nagar, Bangalore-32.

...Respondents

(By Sri O.Mahesh, Advocate for R-1.)

Miscellaneous First Appeal filed under Section
173(1) of the M.V.Act against the judgment and award
dated 16/11/2006 passed in MVC No.74/06 on the file

of the X Addl. Judge, Member, MACT, Metropolitan Area, Bangalore (SCCH.16), partly allowing the claim petition for compensation and seeking enhancement of compensation.

This appeal coming on for hearing this day, the court delivered the following :

J U D G M E N T

Heard both sides in respect of the appeal preferred by the claimant seeking enhancement of compensation.

2. The submission made by the appellant's counsel is that the M.A.C.T., while awarding Rs.1,05,000/- as compensation, has awarded Rs.35,000/- by clubbing various heads and did not even give any reason as to how the said amount of Rs.35,000/- is arrived at in respect of various heads like loss of future earning capacity, loss of amenities of life and loss of income during treatment period, and the Tribunal did not even discuss the income of the appellant as to how it arrived at the lumpsum figure of Rs.35,000/-. Secondly, referring to the number of injuries sustained and the medical evidence on record, the submission made is



that when the doctor has opined that the appellant has got 30% right upper limb disability and 15% left upper limb disability, the Tribunal could have considered the medical evidence and assessed the compensation under the head of loss of future earning capacity by applying the usual formula. But, this was not done.

3. On the other hand, the learned counsel for R-1 Insurance Company also submitted that the Tribunal has not properly assigned reasons for arriving at the various figures as shown in paragraph-20 of the award and secondly, referring to the medical evidence on record, the submission made is that, when the doctor has not stated as to what would be the percentage from the angle of earning capacity, because, except stating that there is weakness in the left hand there is no other disability pointed out and therefore the medical evidence has not been properly placed by the claimant.

4. In the light of the above submissions put forward, I am of the view that this matter requires remand to the Tribunal to consider afresh the quantum of



compensation to be awarded under various heads and the Tribunal shall have to give reasons for awarding a particular sum under a particular head and should not award a lumpsum figure under various heads put together in an omnibus fashion.

5. As such, the matter is remanded to the M.A.C.T. by setting aside the award and the appeal is allowed to the said extent. The Tribunal shall reassess the compensation in the light of the above observations made and dispose of the case, within three months from the date of receipt of this order. The records be sent to the Tribunal forthwith.

**Sd/-
Judge**

ckc/-