

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF MARCH, 2016

:PRESENT:

THE HON'BLE MR. JUSTICE N.K. PATIL

AND

THE HON'BLE MRS. JUSTICE RATHNAKALA

M.F.A.No. 9033 of 2015 (MV)

Between:

Veerendra Kumar,
S/o. Basavaraju,
Aged about 21 years,
R/at. Gowdagere Village,
Malavalli Taluk, Mandya District.

....Appellant

(By Sri. A. Sreenivasaiah, Advocate)

And:

1. The Divisional Manager,
KSRTC, KSRTC Bus Stand,
Mandya.
2. The Divisional Manager,
Oriental Insurance Co. Ltd.,
Divisional Office, I Main Road,
Saraswathi Puram, Mysore.

....Respondents

(By Sri. P. B. Raju, Advocate for R2;
Notice to R1 dispensed with v/o. dated 09/12/2015)

This MFA is filed U/s. 173(1) of MV Act against the
Judgment and Award dated: 25/06/2013, passed in MVC

No.36/2010, on the file of the Senior Civil Judge and Motor Accident Claims Tribunal, Malavalli, partly allowing the claim petition for compensation and seeking enhancement of compensation.

This M.F.A. coming on for Orders this day, **N.K. PATIL J**, delivered the following:

:J U D G M E N T:

Though this matter is posted today for orders, with the consent of learned counsel appearing for both the parties, the same is taken up for final disposal.

This appeal by the appellant-claimant is arising out of the impugned judgment and award dated 25/06/2013, passed in MVC No.36/2010, by the Senior Civil Judge and Motor Accident Claims Tribunal, Malavalli, (hereinafter referred to as 'Tribunal' for short), on the ground that the compensation and the rate of interest awarded by the Tribunal is on the lower side and it requires enhancement.

2. By its judgment and award, the Tribunal has awarded a sum of Rs.40,000/- with interest at 6% p.a. from the date of petition till its deposit as against the claim of Rs.24,50,000/- on account of the grievous

injuries sustained by the appellant in the road traffic accident that occurred on 23.1.2010 at about 2.00 p.m. near Gowdagere gate on Malavalli Kanakapura road on account of rash and negligent driving by the driver of KSRTC bus bearing Reg.No.KA.42.F.126.

3. We have heard learned counsel appearing for appellant and learned counsel appearing for Insurer.

4. The submission of the learned counsel Sri. A. Sreenivasaiah, appearing for appellant, at the outset is that, the Tribunal has not awarded reasonable compensation on account of the injuries sustained by the appellant in the accident and what is awarded is on the lower side and contrary to the material available on record. Further, he submits that, the wound certificate produced by the appellant shows that appellant has sustained two grievous injuries and one simple injury, but due to communication gap, he could not examine the Doctor and on account of which, he has not received reasonable compensation to which, he is entitled, as he

is a very bright student prosecuting his I PUC in Maharaja College, Mysore and on account of injuries caused to him in the accident, he has lost his education. If one more opportunity is given, he would examine the Doctor who has treated him and make out a case for enhancement of compensation and all the grounds urged in this appeal may be left open. Therefore, he submitted that the impugned judgment and award is liable to be set aside and the matter be remitted back to the Tribunal for consideration afresh.

5. As against this, learned counsel appearing for the Insurer fairly submitted that, placing the submission made by learned counsel for the appellant, as stated supra on record, the impugned judgment and award may be set aside and the matter be remitted back to the Tribunal for reconsideration, reserving liberty to both the parties, to make out their case before the Tribunal and all the grounds urged by both the parties may be left open.

6. The submission made by learned counsel appearing for both the parties, is placed on record.

7. Having regard to the facts and circumstances of the case in hand and in the light of the submission made by learned counsel for both the parties as stated supra and to meet the ends of justice, without expressing any opinion on the merits and demerits of this case, it would be appropriate to direct the Tribunal to reconsider the matter afresh and pass orders in accordance with law.

8. For the foregoing reasons, the appeal filed by the appellant is allowed.

The impugned judgment and award dated 25/06/2013, passed in MVC No.36/2010, by the Senior Civil Judge and Motor Accident Claims Tribunal, Malavalli, is hereby set aside and the matter stands remitted back to the Tribunal for reconsideration afresh, with a direction to pass appropriate order, in accordance with law, after affording reasonable

opportunity of hearing to the appellant and respondents, personally or through their counsel and dispose of the same, as expeditiously as possible, at any rate, within a period of six months from the date of receipt of a copy of this order.

The appellant and respondents are permitted to file necessary applications before the Tribunal to lead additional evidence both oral and documentary, within four weeks from the date of receipt of a copy of this judgment.

In the event, if such applications are filed by the parties before the Tribunal, within the time stipulated above, the Tribunal is directed to receive the same and proceed further and dispose of the same, in terms of the above directions issued by this Court .

The appellant and respondents are directed to appear before the Tribunal either personally or through their counsel on **16th April 2016 at 11.00 a.m** to

take further dates of hearing, without waiting for the notice.

All the grounds urged in this appeal by both the parties are left open.

Registry is directed to return the entire original records to the jurisdictional Tribunal, forthwith.

SD/-
JUDGE

SD/-
JUDGE

tsn*