

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 25TH DAY OF MAY, 2012

BEFORE

THE HON'BLE MR. JUSTICE B. SREENIVASE GOWDA

M.F.A. NO.2827/2008 (MVC)

BETWEEN

SMT LAKSHMI
W/O.KARIYAPPA,
AGED ABOUT 40 YEARS,
R/AT.NO.4, 1ST CROSS,
1ST MAIN, RAJAJINAGAR,
BANGALORE-26.

..APPELLANT

(BY SRI K PRASANNA SHETTY, ADV.)

AND :

THE DIVISIONAL MANAGER
KARNATAKA ROAD TRANSPORT
CORPORATION LIMITED
K.H.ROAD,
BANGALORE-01.

... RESPONDENT

(BY SMT SHWETHA ANAND, ADV.)

MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED: 17.8.2007 PASSED IN
MVC NO. 7223/2006 ON THE FILE OF THE XIX ADDL.
JUDGE, COURT OF SMALL CAUSES, MEMBER, MACT,
METROPOLITAN AREA, BANGALORE, (SCCH.NO.17),
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

This appeal is by the claimant seeking enhancement of compensation awarded by the Tribunal.

2. Heard the learned counsel appearing for parties and perused the judgment and award of the Tribunal.

3. For the sake of convenience, the parties are referred to as they are referred to in the claim petition before the Tribunal.

4. As there is no dispute regarding injuries sustained by the claimant in a road traffic accident occurred on 16.9.2006 due to rash and negligent driving of the KSRTC bus bearing registration No.KA-01-F-7707 by its driver and liability of the KSRTC, the

only point that arises for my consideration in the appeal is:

"whether compensation of Rs.55,133/- with interest at 6% p.a. awarded by the Tribunal is just and reasonable or does it call for enhancement?"

5. After hearing the learned counsel appearing for parties and perusing the judgment and award of the Tribunal, I am of the view that the compensation awarded by the Tribunal is not just and reasonable, it is on the lower side and hence it is required to be enhanced.

6. The claimant has sustained lacerated wound over her fore head and contusion to her head resulting forming of multiple air pockets in the left frontal parietal region. The injuries sustained by the claimant are evident from the wound certificate Ex.P-5, discharge summary Ex.P-6, case sheet Ex.P-9, X-

rays Exs.P-10 and supported by oral evidence of the claimant and doctor, who were examined as PWs-1 and 2 respectively. PW-2, doctor in his evidence has not stated anything about the disability suffered by the claimant

7. Considering the nature of injuries, Rs.20,000/- awarded by the Tribunal towards 'pain and suffering' is on the lower side and it is deserved to be enhanced by another Rs.10,000/- and I award **Rs.30,000/-** under this head.

8. As **Rs.13,133/-** awarded by the Tribunal towards 'medical expenses' is based on the medical bills produced by the claimant and there is no scope for enhancement under this head.

9. The claimant was treated as inpatient in a private hospital for more than one week. Considering the same, **Rs.11,000/-** awarded by the Tribunal towards 'incidental expenses' such as conveyance,

nourishment and attendant charges is just and proper and there is no scope for enhancement under this head.

10. The claimant claims to have been working as a tailor and earning a sum of Rs.4,000/- per month, but the same is not established by producing any documents. In the absence of proof of income, considering her age as 38 years and year of accident as 2006, her income could be assessed at Rs.3,500/- per month as against Rs.3,000/- p.m. assessed by the Tribunal. The nature of injuries suggest that she must have been under rest and treatment for a period of 3 months and therefore a sum of **Rs.10,500/-** is awarded towards 'loss of income during laid up period' as against Rs.6,000/- awarded by the Tribunal.

11. Considering the nature of injuries and an amount of discomfort and unhappiness the claimant

has to undergo in her future life, **Rs.8,000/-** awarded by the Tribunal towards 'loss of amenities' is just and proper and there is no scope for enhancement under this head.

12. The doctor who treated the claimant has not stated anything about the disability suffered by the claimant and its impact on his future life. Therefore, she is not entitled for compensation under the head "loss of future income".

13. Thus, the claimant is entitled for the following compensation:-

	HEADS	Rs.
1	Pain and sufferings	30,000
2	Medical Expenses	15,133
3	Incidental expenses	11,000
4	Loss of income during laid up period	10,500
5	Loss of amenities	8,000
	TOTAL	74,633
	LESS: Compensation awarded by the Tribunal	55,133
	BALANCE	19,500

14. Accordingly, the appeal is allowed-in-part. The judgment and award passed by the Tribunal is modified to the extent stated herein above. The claimant is entitled for an additional compensation of **Rs.19,500/-** with interest at 6% p.a. from the date of claim petition till the date of realisation.

15. The KSRTC is directed to deposit the additional compensation amount together with interest within two months from the date of receipt of a copy of this judgment. The same is ordered to be released in favour of the claimant immediately after the deposit.

No order as to costs.

Sd/-
JUDGE

DM