

Ramegowda vs the Managing Director

Ramegowda vs the Managing Director

SooperKanoon Citation : sooperkanoon.com/1916932

Court : Karnataka

Decided On : Aug-12-2024

Judge : T.G. Shivashankare Gowda

Appeal No. : MFA/3393/2016

Appellant : Ramegowda

Respondent : The Managing Director

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF AUGUST, 2024 BEFORE THE
HON'BLE MR. JUSTICE T.G. SHIVASHANKARE GOWDA
MISCELLANEOUS FIRST APPEAL NO.3393/2016 (MV-I) BETWEEN:

RAMEGOWDA S/O CHINNEGOWDA AGED ABOUT 48 YEARS NO.154,
SHARADANAGAR YALAHANKA NEW TOWN Digitally signed by BANGALORE-
560065. PRAJWAL A Location: HIGH APPELLANT COURT OF KARNATAKA (BY
SRI. K. SHANTHARAJ, ADV.,) AND: THE MANAGING DIRECTOR B.M.T.C.
DOUBLE ROAD SHANTHI NAGAR BANGALORE-560071. RESPONDENT (BY
SMT. H.R. RENUKA, ADV.,) THIS MFA IS FILED U/S 173(1) OF MV ACT

AGAINST THE

JUDGMENT AND AWARD DATED:05.12.2014 PASSED IN MVC

NO.1285/2014 ON THE FILE OF THE III ADDITIONAL SENIOR CIVIL JUDGE, MACT, COURT OF SMALL CAUSES, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION. THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY,

JUDGMENT WAS DELIVERED THEREIN AS UNDER:

-2- CORAM: HON'BLE MR. JUSTICE T.G. SHIVASHANKARE GOWDA

ORAL JUDGMENT

In this appeal, the petitioner is seeking enhancement of compensation challenging the judgment and award dated 05.12.2014 in M.V.C.No.1285/2014 passed by the III Addl. Sr. Civil Judge and MACT, Bengaluru ('the Tribunal' for short).

2. For the sake of convenience, the parties shall be referred to as per their status before the Tribunal.

3. Undisputedly, there was an accident on

01.01.2014 at 7.50 a.m. near Puttenahalli bus stop. The driver of BMTC bus bearing No.KA-01 FA-1556 moved the bus while the petitioner was boarding the bus, due to which he fell down and sustained injuries. After taking treatment at Hosmat Hospital, the petitioner has approached the Tribunal for grant of compensation. Claim was opposed by the Insurance Company. After taking the evidence and hearing both parties, the Tribunal by -3- impugned judgment awarded compensation of Rs.1,08,000/- with 8% interest p.a. Seeking enhancement of compensation, the petitioner is before this Court.

4. Heard the arguments of Sri.K.Shantharaj, learned counsel for the petitioner and Smt.H.R.Renuka, learned counsel for the BMTC.

5. It is contended by the learned counsel for the

petitioner that the petitioner suffered Type I fracture of right tibia and was hospitalized for 6 days. He is working in a private company and earning salary and had loss of income for 3 months during laid up period. The Tribunal did not consider the salary and deducted the allowances which could have been counted as salary. It is further contended that the compensation awarded towards pain and suffering and loss of amenities and discomfort is on the lower side and sought for enhancement. -4-

6. Per contra, learned counsel for the BMTC has

contended that there was contributory negligence on the part of the petitioner in trying to board a moving bus. It is further contended that interest awarded by the Tribunal is on the higher side and the compensation awarded by the Tribunal is proportionate to the injuries sustained and supported the impugned judgment.

7. I have given my anxious consideration to the arguments addressed on behalf of both sides and also perused the materials on record.

8. The Tribunal has assessed the compensation under following heads:

Sl. No.	Particulars	Rs.	1	Pa
period and rest period 3	Nourishment, conveyance and	6,000/-	attendant charges	
4	Medical expenses	10,000/-	5	Loss of amenities
		15,000/-	6	Future medical expenses
		10,000/-		Total
		1,08,000/-		-5-

9. The accident is of the year 2014 and the

compensation awarded towards pain and suffering and loss of amenities and discomfort is on the lower side. It has to be taken at Rs.40,000/- each. The compensation towards medical expenses and future medical expenses assessed by the Tribunal at R.10,000/- each is kept intact. The incidental expenses assessed at Rs.6,000/- has to be treated as Rs.10,000/-. The pay slips produced at Ex.P10 point out that the petitioner is drawing gross salary of Rs.19,815/- out of which allowances comes to Rs.1,821/- which has to be excluded and remaining

salary has to be kept intact and Rs.17,994/- has to be taken. Hence, loss of income during laid up period comes to Rs.53,982/-. Therefore, the petitioner is entitled for compensation under the following heads:

Sl. No. Particulars Rs. 1 Pain and suffering 40,000/- 2 Loss of income during laid up 53,982/- period and rest period 3 Nourishment, conveyance and 10,000/- attendant charges 4 Medical expenses 10,000/- -6- 5 Loss of amenities 40,000/- 6 Future medical expenses 10,000/- Total 1,63,982/- Award of Tribunal 1,08,000/- Enhanced Compensation 55,985/- rounded off to 56,000/- It is the just compensation, the petitioner is entitled to in the facts and circumstances of the case.

10. Sofar as interest is concerned, the Tribunal

awarded 8% interest exercising its discretion. It is not proper to interfere in it. Sofar as enhancement of compensation, the petitioner is entitled to interest at 6% p.a. Hence, the appeal merits consideration, in the result, the following:

ORDER

i) Appeal is allowed-in-part; ii) Impugned judgment and award is modified; iii) Petitioner is entitled to enhanced compensation of Rs.56,000/- with interest @ 6% p.a. from the date of petition till the date of deposit. -7- iv) The BMTC shall satisfy the award within eight weeks from the date of receipt of certified copy of the judgment. SD/- (T.G. SHIVASHANKARE GOWDA) JUDGE RV List No.: 1 SI No.: 27