

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18th DAY OF MARCH, 2008

BEFORE

THE HON'BLE MR.JUSTICE MOHAN SHANTANAGOUDAR

M.F.A. NO.13286 OF 2007 (M.V.C)

Between :

K. Madhashetty
S/o late Kullashetty
Age 47 years
R/o Ummathuru Village
Santhemarahalli Hobli
Chamarajanagar Taluk & District.

..Appellant

(By Sri R.C. Nagaraj, Adv.)

And :

1. Veerabhadraswamy
S/o Eregowda
Age 37 years
R/o Sale Koppal Village
Chunchanakatte Hobli
K.R. Nagar Taluk
Mysore District.
2. S.K. Chandrashekar
S/o Kalappa, Major
R/o Sindhaghatta Village
K.R. Pet Taluk.
3. The Oriental Insurance Co., Ltd.,
No.94, I Floor, Mysore Road
Opp. Police Parade Ground

Bangalore
Rep by its Divisional Manager.

4. Rudramurthy
S/o Veeranna
Age 40 years
Occ : KSRTC Bus Driver
No.225, ESW, 9th Cross
Gangothri, HUDCO
Mysore.

5. The Divisional Controller
KSRTC., Mysore Division
Mysore.

.. Respondents

(By Sri K. Nagaraj, Adv., for R5)

This Appeal is filed under Section 173 (1) of Motor Vehicles Act against the judgment and award dated 10-8-2007 passed in MVC No.33/2004 on the file of the Presiding Officer, FTC and MACT, Chamarajanagar, partly allowing the claim petition for compensation and seeking enhancement of compensation.

This Appeal coming on for final hearing this day, the Court delivered the following :

J U D G M E N T

This is the claimant's appeal praying for enhancement of compensation awarded by the Tribunal below.

2. Due to the accident occurred on 4.7.2000, the appellant-claimant suffered rupture of urethra. The claimant was admitted twice to the hospital. On the second



occasion he was operated. The Tribunal, in all, has awarded Rs.1,54,300/-, as compensation.

3. As could be seen from the evidence of the doctor, it is clear that the claimant is unable to pass urine as usual. The drain pipe was inserted to drain the urine. Therefore the claimant was advised to undergo operation. Only after the operation he is able to pass the urine as usual. However, the evidence of the doctor discloses that the leakage of urine cannot be stopped as advanced facilities are not available in India. However, it can be controlled by constant medicines. According to the doctor, this injury may lead to impotency.

Having regard to the aforesaid facts, the claimant shall be awarded Rs.40,000/- towards injury, pain and suffering and Rs.60,000/- towards loss of future amenities of life.

The claimant was inpatient in the hospital for 46 days in all. He underwent operation. He must have taken the assistance of special diet and attendants. He must have spent lot of money also. Therefore, he shall be awarded

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Rs.25,000/- under the head of medical expenses and Rs.25,000/- towards, food nourishment, conveyance, attendant and incidental expenses.

The amount of Rs.75,000/- awarded under the head of disability is just and proper and the same is retained.

The laid up period in this matter can be taken as five months. His income may be assessed at Rs.3,000/- per month. Hence, he is awarded Rs.15,000- towards loss of income during laid up period. As the claimant has to be under medication for considerable length of time in future life, he shall be awarded Rs.30,000/- towards future medical expenses. Thus, in all, the claimant is entitled to Rs.2,70,000/- as compensation. Accordingly, the following order is made:-

The appellant-claimant is awarded total compensation of Rs.2,70,000/- (Rupees two lakhs seventy thousand only), inclusive of the amount already awarded by the Tribunal below, with interest at 6% p.a. from the date of petition till



the date of payment. 50% of the awarded amount shall be deposited in any nationalized bank, with liberty to the claimant to withdraw the accrued interest periodically. Remaining 50% of the amount shall be paid to the claimant. Award shall be drawn accordingly.

Out of the total compensation amount, respondent No.5-KSRTC is liable to pay compensation to the extent of 10% and respondent No.3-Insurance Company is liable to pay compensation to the extent of 90% as ordered by the Tribunal below.

Appeal is *partly allowed*.

*ck/ban-

Sd/-
Judge