

**SUPREME COURT OF INDIA**

C. Mohanraju

Vs.

Divisional Manager, Unit.Ind.Ass.Co

C.A.No.2931 of 2011

(G.S.Singhvi and A.K.Ganguly JJ.)

04.04.2011

**JUDGEMENT**

**GANGULY, J.**

1. Leave granted.

2. On 2.09.2002, at about 2.30 pm, the appellant- claimant was walking on the Byatarayanapura road near the bus stop, when the driver of a motorcycle (bearing no. KA-03-X-8591) came and dashed against the appellant, as a result of which the appellant sustained serious head injuries leading to weakness of his right hand and leg. The respondents are the 1 insurance company and the owner of the offending vehicle respectively.

3. The appellant filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, claiming compensation to the tune of Rs.4,00,000/-.

4. The Motor Accident Claims Tribunal (MACT), vide award dated 22.06.2006, concluded that the accident had occurred due to the rash and negligent driving of the motorcycle, resulting injuries to the appellant. Though the doctor had assessed disability at 25% to the whole body, the Tribunal took it at 10%. The appellant was aged 35 years and was involved in silk winding. He claimed to be earning Rs.4,500 per month but there was no documentary evidence to prove his income. Hence, the Tribunal assessed it at Rs.50/- per day, which amounted to Rs.18,000/- annually and Rs.6,30,000/- during his whole life. As 10% loss was caused due to disability, the Tribunal held that the appellant was entitled to Rs.63,000/- towards loss of

future income. The Tribunal also awarded Rs.20,000/- for pain and suffering, Rs.10,000/- for loss of future amenities, Rs.1,200/- for medical expenses, Rs.5,000/- for future medical treatment and conveyance. Accordingly, total compensation was fixed at Rs.1,02,200/-, payable with interest @ 6% p.a. from the date of the claim petition till date of deposit by the insurance company on behalf of the owner of the offending vehicle.

5. Aggrieved by the compensation awarded by the Tribunal, the appellant appealed to the High Court of Karnataka at Bangalore. The High Court partly allowed the appeal by enhancing the compensation amount. It held that as the appellant was a silk weaver, he could not have been earning less than Rs.3,500/- per month. Thus, it awarded loss of income during laid-up period as Rs.10,500/- (Rs.3,500 X 3 months). The High Court calculated the disability of the whole body at 25%. It held that annual loss of income would be Rs. 10,500. As the claimant was aged 34 years, the applicable multiplier would be 16. Thus, loss of future income was calculated at Rs.1,68,000/- (Rs.10,500 X 16). Considering the nature of injuries suffered by the appellant, the High Court also enhanced amount awarded for pain and suffering to Rs.35,000/-, for loss of amenities to Rs.50,000/-, for medical and allied expenses to Rs.10,000/-. Accordingly, total compensation amounted to Rs.2,78,500/- along with interest on the enhanced amount @ 6% p.a. from the date of the claim petition till date of payment.

6. Being still aggrieved by the judgment of the High Court, the appellant filed the present appeal claiming further enhancement of compensation.

7. Having heard the parties and perused the materials on record, we are of the opinion that the appeal deserves to be allowed.

8. The High Court, in calculating future loss of income, took the monthly income of the appellant to be Rs.3,500/-; thus annual income would amount to Rs.42,000/-. Accordingly, annual income of Rs.42,000/- at a multiplier of 16 amounts to Rs.6,72,000/-. The next question for consideration is the percentage of disability.

9. As per the doctor's evidence, doctor assessed disability as hemiparesis right side at 40%, severe headache 10%, blurring of vision 10% and recent loss of memory at 10%. He assessed 25-30% disability of the whole body. The doctor also added that as a result of the disability, the appellant was incapable of doing silk winding work or any other manual work. It seems that there is severe weakness of the right hand and leg. The appellant is a silk winder, an occupation for which he needs to use his

hands. Weakening of his right hand would adversely affect his ability to perform his occupation as he had been doing before the accident. As a result, we assess the disability of the victim to earn in future at 30% as against 25% assessed by the High Court.

10. Thus, loss of future income amounts to Rs.2,01,600/- (30% of Rs.6,72,000/-). We also enhance the compensation awarded for future medical expenses to Rs.10,000/-. The compensation awarded by the High Court under the remaining heads is sustained. Thus, it comes to Rs.3,17,100/-, which we round off to Rs.3,20,000/-. Interest will be payable on the enhanced amount at 6% from the date of the claim petition till date of realization.

11. Accordingly, the appeal is allowed.

12. No order as to costs.