

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 2890 OF 2012
(Arising out of SLP(C) No.13572 of 2011)

Sri Murali

.....Appellant

versus

Manager, Royal Sundram Alliance Ins. Co. Ltd.
and another

.....Respondents

O R D E R

Delay condoned.

Leave granted.

In an accident which occurred on 22.03.2004, the appellant suffered multiple injuries when he was hit by a lorry bearing No. TN-27 R 9666. He was immediately taken to Sanjay Gandhi Hospital. Later on, he was shifted to NIMHANS Hospital for treatment. He took further treatment at Victoria Hospital and spent about Rs.18,000 towards medical expenses. After recovery, the appellant filed a petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') and claimed compensation of Rs.5 lacs with interest at the rate of 18% per annum. In paragraphs 11 to 14 and 22 of the petition, the appellant made the following averments:

"11) Nature of injuries sustained and to continuing effect, if any of the injury

1) Lacerated Deglowing Injury over the posterior part of the Thigh Knee joint and leg.

2) Injury on right leg & 3) Injury on left eye brow & other grievous injuries all over the body.

12) Name & Address of Medical officer/ practitioner if any who attended on the injury

1. NIMHANS Hospital Bangalore 2) Victoria Hospital Bangalore

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13) Period of treatment & expenditure if any, incurred thereon (to be supported by documentary evidence)

I am still under treatment. So far I have spent about Rs. 18,000/- towards medical & Conveyance expenses.

14) Nature of the injury and whether it caused permanent disablement or not

Grievous in nature caused permanent disablement.

22. Any other information that may be necessary or helpful in the disposal of the claim

That on 22/3.2004 at about 10.15 p.m. I was standing by the side of Hosur main road from east to west at Bommanahalli to cross the Hosur main road from east to west. At that time a lorry bearing registration No.TN-27-R-9666 came from North and proceeding towards South came in rash & negligent manner with high speed and dashed against me. As a result of which I sustained grievous injuries as mentioned in Column 11 of the petitioner, immediately. I was shifted to Sanjay Gandhi Hospital and later to NIMHANS. I took further treatment at Victoria Hospital wherein I was admitted as an inpatient. Till date I have spent about. Rs. 18,000/- towards medical expenses.

Looking to the nature of injuries I apprehend that I will get the permanent disability and I will be disabled to do my occupation and earn my lively hood. Apart from loss of earnings, I will have to suffer from constant pain and discomforts through out my life. Hence my life has become miserable and dark due to this accident."

The owner of the vehicle did not contest the appellant's claim but in the written statement filed on behalf of respondent No.1, the averments contained in the petition filed by the appellant were denied and it was pleaded that the accident was not caused due to the rash and negligent driving of the lorry and, as a matter of fact, the appellant was responsible for the accident. The appellant's assertion about the nature of injuries and the treatment taken by him were also contested by respondent No.1.

In support of his plea that he had suffered injuries in the
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accident and as a consequence he had become disabled, the appellant filed his own affidavit as also the affidavit of Dr. Ramesh Krishna, Orthopaedic Surgeon of Victoria Hospital, Bangalore. Both were cross-examined by the counsel for respondent No.1.

After considering the rival pleadings and evidence, Motor Accident Claims Tribunal, Bangalore (for short, 'the Tribunal') passed award dated 31.8.2005 and directed the Insurance Company to pay Rs.36,000/- with interest at the rate of 6% per annum.

Feeling dissatisfied with the meagre amount of compensation awarded by the Tribunal, the appellant filed an appeal under Section 173 of the Act. The learned Single Judge of the Karnataka High Court, on a reappraisal of the evidence produced by the parties concluded that the appellant is entitled to enhanced compensation to the tune of Rs.87,000/-, but made deduction of 10% on the premise that there was contributory negligence of 10% on his

part, awarded an additional sum of Rs.42,300/- with interest at the rate of 6% per annum.

We have heard learned counsel for the parties and perused the record. We have also gone through the affidavits of the appellant and Dr.Ramesh Krishna and their cross-examination.

In our view, the impugned judgment is liable to be set aside because while determining the amount of compensation, the Tribunal and the learned Single Judge of the High Court ignored the principles laid down by this Court in R.D. Hattangadi v. Pest Control (India) (P) Ltd. (1995) 1 SCC 551, Reshma Kumari v. Madan Mohan (2009) 13 SCC 422, Arvind Kumar Mishra v. New India Assurance Co. Ltd. (2010) 10 SCC 254, Raj Kumar v. Ajay Kumar (2011) 1 SCC 343, Ibrahim v. Raju (2011) 10 SCC 634 and Sanjay Batham v. Munnalal Parihar (2011) 10 SCC 665 for determination of the compensation payable in such cases.

In view of the above, we may have set aside the impugned judgment and remitted the matter to the High Court for fresh determination of the compensation payable to the appellant but keeping in view that remand of the matter will only add to the agony of the appellant who has been litigating for almost six years, we do not consider it proper to adopt that course and feel that ends of justice will be served by awarding a lump sum amount of Rs. 3 lacs to the appellant by way of compensation keeping in view the law laid down in Raj Kumar's case and Sanjay Batham's case.

The appeal is accordingly allowed and the impugned judgment is set aside. The award passed by the Tribunal is also set aside and respondent No.1 is directed to pay total compensation of Rs. 3 lacs to the appellant with interest at the rate of 6% per annum from the date of filing of petition under Section 166 of the Act. The amount of compensation shall be paid to the appellant within a period of 3 months from today by getting prepared a demand draft in his name.

.....J.
(G.S. SINGHVI)

.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

NEW DELHI;
MARCH 16, 2012.

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ITEM NO.47

COURT NO.6

SECTION IVA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).13572/2011

(From the judgement and order dated 13/01/2010 in MFA No.4760/2006
of The HIGH COURT OF KARNATAKA AT BANGALORE)

SRI MURALI

Petitioner(s)

VERSUS

MANAGER, RS ALLIANCE INS. CO. LTD. & ANR

Respondent(s)

(With appln(s) for c/delay in filing SLP and c/delay in refiling
SLP)

Date: 16/03/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s) Mr. V.N. Raghupathy, Adv.

For Respondent(s) Ms.Mahalakshmi Pawani, Adv.
Mr.Mukesh Kumar Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

Delay condoned.

Leave granted.

The appeal is allowed in terms of the signed order.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed order is placed on the file)