

Karnataka High Court

Raghavendra Achar vs Shamim on 7 September, 2009

Author: N.Ananda

1 M.F.A.343/07{MV}

IN THE HIGH COURT OF KARNATAKA AT BANGALORE  
DATED THIS THE 07TH DAY OF SEPTEMBER 2309  
BEFORE & 4' 3  
THE HON'BLE MR. JUSTICE N.  
MISCELLANEOUS FIRST 'V  
BETWEEN: E 'I V' A

RAGHAVENDRA AC I%I.r.-Em'

S/O NARAYANA ACHAR, . \_ -

ACED ABOUT 24

R/O. ULLURU, 'HJ\_JI'E\_ANI, KANDAVARA,

KUNDAPURA TALUK, '1UDLIPI"D'IS'1'E1cT,

SINCE DISABLED -REE' BY HIS' I\I;Ex\_'I\* FRIEND,  
GUARDIAN--BR.0"1'HE'R \7..\_"S\_I\_} ACHAR

S/O 1\$LARAYAN;«?\AC}~IAR. \*

~. A \_ \_V jj; . I .APPEI..LANT  
[By Sri ADV.)

I. SHAMIM S/CIAED-I.I.L GUPUR,  
\_ AGED ABOUT 32 "': 'EARS,  
" NAGARA, DCDDMANE GUDDE,  
' .....

' \_ INDIA ASSURANCE Co. LTD..

FLOOR, SR1 RAM ARCADE,  
OPPQ POST OFFICE UDUPI,  
BY ITS BRANCH MANAGER.

RESPONDENTS

Sri R. RAJAGOLPAL ADV. FOR R2) M.F.A.343/07{MV} THIS IS AN APPEAL FILED U/8.173(1) or' ACT AGA1NsT THE JUDGMENT AND AWARE) DATED 23,/as/2006 PASSED IN MVC No.94/04 oN THE FILE OFF'}H\_l':3\_C'.IVIL JUDGEXSD} & MACT, KUNDAPURA, PART1;Y"«.4lLL:{V?;fIPJG THE CLAIM PETITEON FOR coMPENsAT1oN..' \_AND.VsEEK\_i\_NG ENHANCEMENT OF COMPENSATION. This appeal coming on fonheanng i-hi.s..'da.y;"the eoiirt delivered the following:

JUDG□ENTxddd This is a c1airnant'\_s \_fo1\* enhancement of compensation. 1

2. Kiranshetty, learned counsel for the appellant; agopal, learned counsel for the respondent; records and medical evidence, had established following injuries; ~ 2 cm Superficial abrasion over lateral aspect of elbow;

2X1 cm laceration over middle 1/3" of Right leg;

5X1 cm laceration over the chin; Closed head injury with right basifrontal contusion.

/1 {i:}?'i'; '=£iv) i 4' T\:

,2' xg ' L ..--«.

u at 3 M.F.A.343/07(MV)

4. The claimant was treated in Kasturba Hospital at Manipal. The Discharge summary would reveal that at the time of discharge, claimant was conscious, with GCS 15/15 and no cranial nerve palsy; afebrile. Motor power 5/5 in all, for irregular bl.s. g b.

5. The disability certificate dated 02.12.2005 issued, by the Kasturba Hospital reveals that claimant was advised to take anti-convulsants for 5 years: There was gross deterioration of intellectual function;

6. hasij compensation of Rs.17,500 (Rs.17,500/-) awarded by the learned counsel for claimant would submit that, claimant is mentally incompetent the tribunal should have awarded, compensation towards loss of earning capacity and future loss of .. It is noticed from records that the claim petition filed by claimant. In the claim petition, it is not stated that, § 4 M.F.A.343/07(MV) that claimant suffers from mental impairment. The brother of claimant was examined as PW-1 on the ground that claimant was not in a position to give evidence before the Tribunal.

8. It is noticed from records that 'after inspection of the amount in terms of award, P. 3. claimant has received a cheque for conduct of claimant is inconsistent with the evidence. If the claimant is mentally incompetent; VL: d~4h1\_-p, 1\_ 'e\$ "c..i€} petition should have been filed by his next of kin; guardian. If claimant is mentally understandable as to how he had Rs.30,459/- from the tribunal. Considering all this I hold that claimant is not suffering from mental impairment. Therefore, there is no compensation under the head 'loss of earning and future loss of earnings'. It is seen from the impugned award that tribunal has awarded compensation of Rs.17,000/- towards injury, pain and suffering, considering nature of injuries, the same is enhanced to Rs.25,000/-. Thus, claimant is entitled to total compensation of Rs.85,500/-

10. In the result, I pass the following:-- "A" .. " V" t

(i) The appeal is dismissed; A.1.13 Cii: iV? t. pa1 "t..h', 'A- . i, it

(ii) The impugned tax is if it is found.

(iii) compensation of 500/- awarded by the court @ 6% p.a.

the date of the judgment. H

(iv) The investment shall be in the ratio of 1:1 in the impugned award. (V) Parties are directed to bear their costs. Signed - Judge