Karnataka High Court

Kiran Kumar Kodi vs New India Assurance Co Ltd on 26 February, 2009

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Author: B.V.Nagarathna
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"'-"If ,.'.-"V ~A'V'\' VI nnnlifllnnn rilurl Luulu Ur l\AKnlAEA1U-I HIGH GUURT OF KARNATA
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IN THE HIGH cmm GP' KARHATAILA M' BAHas..:§c::22E
DATED THIS THE '26*** BAY cm FEBRUA§§;Y'{2;C§'{§I9'V4
BETWEEN': -
KIRANKUMARKODI
510 K.8.NAVA.DA
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snmauzptxnw T' - ,1;
BAHc.a.LmE.:;:1. ._ %
-- I ...APPELum'r
(BY;
       $121 v:._SI~:AsTR1, wv.,)
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1'3'-mm' co. LTD.

R«:':.£-1_=.i. Umry □mnmn . Anxmc□ MI\$3=_l'i3N mm '-.m::. ms mmvmammm mm L"I'IJ., _ 'JFFICE, vim! KAR.NHi'AKA CIRCUIT HOUSE RGAI} DISTRICT -

'V V ...RE3PC3NI}ENT8

--run 'urban: 7» air':-n-r-I-a-I-nu:-3 1 In-"I 3-nxrvnl vi n-I-nu':-|u-|l\.l-I I'li\FrI \.«\.lU'llI V!" l\l-IIIIVI-Ill-|l\.l| l'll\ll'l DUUKI U!' IKHKIWRIRKA HIGH UQUKT UF THIS MFA FILED ms 1273(1) OF 1»s\,*lllac:r gamer TI-E JUIDGMENT ANIJ A'WARD..~«~~.I3g%"IE\D_" 3.5.5200? PASSED at MVC No.3394;20m , OF Tim ADDL. JUDGE, CGIJRT OF sMAI\'eL'."gA1JV\SEs,"' _ MEMBER, MACT-V, I~mI'R<}PQLrrAH \(\phi\) L BANGALORE, (scar-:.r:o.53 PAR?I'LY.,, Alznawmell 5 cum PE'I'ITIDH ma C(3IaIPENE':..I%.'I'If\(\phi\))\(\fi\) I mm 'E'aEf.I\(\phi\)I(\;\;\star\)'\S"'--.. ENHANCEMENT o? coxumtsagna\(\phi\) THIS ma come on my TI-IE coum DELIVERVEEQTHE J U This claimant l\(\phi\) Impiilnsation, being dis- auatia\(\phi\) made' by MAUI', at Ba11ge..1ore O6 d.ate~d:8.6.0'7. '..2A.--v.Th\(\phi\)«v.Vlfelcvant facts of the case are that an 8.00 p.m., when the claim' ant his Kir1etic*-Honda on Railway parallel 4' Bangalsre, at that time, a '11' lorry bearing registration No.KA;:.25-6154 wa\(\pi\)/' nu-nun ruwn I-ilullllll vr nnnnninnn Hwin HOUR'! "Ur'li'Al(NATAl(A

HIGH COURT OF KARNATAKA HIGH"! =<I-II?-Inriu Iuwvlni TI nurlliliiilrnill□'-I'II'lIII 'WT' driven in a rash and negligent manner and against the c1a.1man't, as a result, he fail sustained injuries. He was shift-531 side hospital and a □er □rst aid, 'Mallige Medical Centre for iiet' patient and toek fellanw that he su □ered permanent of the injury sustaitlad in the petiticm seelnrg'

8. On rewipt the res-pon&nts "'a,I1Vd S reapective . wrtitten Athe*««~~aven11cnta made in the claim dismiasal ef the claim above p1eadmgs' , the I; following 71381133 for its the petitioner proves that, on ::j'QD.3.2006 at about 3.00 p.m., on /"/' ...---- -v- cu-uuunvruu-III!' $_$ 4 ..

Railway paralal % road,___ Subramanyanagar, Bangalore, he with an accident 8: sustained inj_v.iiiri¢Isu,._'._:".j' was due to aotzicmahle neg teni;¢"iLri§ti::;{□' the part of driver (if A Rmisha the H9.KA-25-;6s13.§ iéiw. ii" « . :7 A

- -2. 'Whether the pe \Box cer is compensa \Box cn?' If sic; a;i%ii¢.ay mudh and from whom? '3-' I'1'i\$VWi:a.3ci the clajm' ant examiniiami Dr. vrr. V-cnkatcsh PW-2; wit \Box iaa as PW-3 and got marked the respozidents did not let in the basis of the material on V tribtmal awarded compensation of . +i)00/- with imcrest at the rate of 6% p.a. "the date of claim petiticin till realisation. Not satis \Box zd with the said quantum of 9y»-
- ,~"ih¢ I "V! -A \g\-fivni Ur Iv-\IsIVlHIl-\l\l-I ruun LUUKE U!" KAKNAIAKA HIGH COURT OF KARNATAKA HIGH COURT OF KARNATAKA HIGH 'compensation, the claimant has preferred appeal
- 5. I have heard 1ca.:'x1cd:=.__ ccuzzilscf Afcr "t'i2c appellant.
- 6. It is eubmittes:i:_'.c_n ~--£.1'1c' A that the & abrasions head injury, fracture cf Vccnlplctc tear of patellar 'u the evidence of the Doctor, ix;jurVi:Vcc5'4Vvfcru:§;'..'c'5g_rievcus in nature. That wasaa.an~pancnt in Malligc Medical to 24.3.06 and that can account injuries, he was permanently 'the circumstances, the tribunal have awarded compencation on the head ljicsi of future earning capacity" or in the alternative the head "disability". In the instant case, no fr 'part c ..w.-y_-u:.ynanu vi nruuu-|u'II\l'| TIIIJI1 I.-\lUKI Ur IHKNRIHKA HIGH oonlpensation has been awarded on the said hgads and therefere, he requests this Court to ~ ccmpensation an the said heads.
- 7. Having regard to the the counsel for the appe1Eé1m:h,V arises far my cozxsicjzg-ra.b'c;11..VViis._ whetl \Box er the judgment and await? 'the tribunal requires any :_'L;1tg§rferci 11c:#'§_:'V.«:-;:I;s;%e§*i;a1«.(§:1H_V.é'ecord, it is evident that mum ¢£:%;:--%i%%;sS,£jco/+ has been awarded by *_' the tr-ibun''&I_' on :.he%%ro;1ow~mg heads viz, 'pain and ._gu \Box e;tEZng§R§.5o','CioQ,f«+, "less of amenities cf life \Box hiedjcizza and attendant charges -- Rs.5Q,000_1%-- k 'loss af carning for the laid up "-R's.15,090/-,2 H/*
- -unuu swan: vu nouns':-nu-any-| nlwri 1.9!-uflunl I.lI"' nnnununnn I'!ll'l"'I HUUKI UP IHKIVRIAKA HIGH CQURT OF I

-On perusal of the judgment seen that far two injuries, the award 3 'pain and suffering" in on the highattfsick-.._.: though medical e::pense\$"TV__v{:-ii V proved, compensation. .. "'13. J%Rsi5o,kQDo;. presumably because na has been made on the of which also does as such. As far as "loss of incemc during' C€)1'1CCI'11Cd, though it xhaa bggzx _v;:c2:;'."1 i:¢:~;zv'1_§1'c=;-:.t":I '.i;:3c1e appellant that he waa Engixleer at Infosys and F3s.25,(}Go/- p.m., the salary is produced which is in respect of there is I16 evidence on reward ta shcw □account 91' the injuries austainad in the .u_4§;c*.H<v'.;.ident, there was no deductions or non~payment V ofaa_1a.ry, even than the tribunal has awarded a. sum /2"' '"""""" V' "-1-" 'H-'I-'H III!-7!"- -I-_-\.funI vr nnnnvnlnnn I'!\Ji"I LUUIU Ur IKAKNAIAKA HIGH COURT OF KARNATAKA HIGH COURT OF KARNATAKA HIGH 1,3"

of Ra.15,000f- under the said head. As far as; compensation on the head "loss of capacity' is concerned, a1thoug.h""the A examined as PW-3 and he has was whole body disability tile in not award any {!{}II1}iZIa!'1;::34§137El'llif"§ii':_ 'iicad, because cf the fact ircated the appellant wan: Doctor waa that reliance could noi:.._ be irtiicience «of PW-3 as to the disab□{§*«..._aa3i§:a\$:'é§1" Moreover, EVBII as par Pii;§§i1,i?%ii:¢ f1;§§éitur¢«'Wa3 united and he could fold iig□fuld sit. In View of clear admisaion of held that there was no 'loss cf

-- capacity" and thereby did net award K ciiiitupensation on the aaid heads. Hoswwever, note of the evidence of PW $\}$. and PW-3-the tribunal awarded compensation Of /9' ...-p- -uwwa-nu tn II:-urn-up-nu;-nu'.-g [1

-wII \,-_.-V-('Uni Ur nnnlvnlnnn rllllrl EAJUIII Ul' IAKNAIAKA HIGH COURT OF KARNATAKA HIGH COURT OF KARNATAKA HIGH 'Rs.70,00l3/- can the he-.ad "loss of amenities" awarded total conzpsnsation sf 'I'akıng' in overall View of the matiéf;"I« V' award of compaenaation on au ☐ tring' i.::.., to an extent ☐ the head of "lama of' :« of R.-\$70,000/-- are Aon reasons have been ta why no head "futune earning the absence of any material #1033 of income during &------aum af Rs.15,000j-- hag been the fact that the

- the head 'pain and su \square bring" and . ' '--"1V~V".xu"ag pf ainiéni \square es" are rather disprcaportionatc and a %;§}¢m£%%ies.15,00a;- has been awarded towards "losa during treatment periacf" and censidaaring nature of injuries suffered by the appellant, I %/'4"

-s-an -"'\g\-awn! ur nnawanannn ruurl L.UUI(i OF KARNATAKA HIGH COURT OF KARNATAKA HIGH COURT OF KARNATAKA HIG _. 10-

find that the award made by the _t.rih_z_;na. \Hd _esfv a'1{:»f.:4_' 'V call for any interference in thfa " For the, afar'-ssnaici reasons; \L_g 'r'c, \hfill c': 'tedf;