Karnataka High Court

Master Naveen Kumar vs United India Insurance Co Ltd on 9 January, 2009

Author: Huluvadi G.Ramesh

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    IN THE HIGH COURT OF KARNATAKA AT
    BANGALORE

    DATED THIS THE 91"" my OF JANUAR§5 §0{)9

    BEFORE

    THE H()N'BLE MR. J[ISTICE..H_L'?LU

    MISCELLANEOUS HRS'? APPEAL

    ._2_§e§Qnj=


    Master Naveen Kuxiiai Sf{i--_Na,1"asii:fi2~:;iah,

    New aged about 14 years,  "
    Since minor £cprcse2:féd--  namuai g.uaf(1ianf
    Mother  Nafasi_n,ihaia11,

    Aged  '  _ --
    Residezzt af Beshind QI'; Hospiml,

    Bhagath s3ngkh'}Jaga:»;,«%Ncar KSRTC Depot
    Chickbajlapur.-__   ...APPELLANT

     }:B;gjsri. AK.1i.'M:-xai'ikréshna & Smt.D.K.Kamala, Adm}

    ' A  LIziif§:d}:Indéa Insurance Co. Ltd,

    Z "Re§)i'esented by its Dixiiisionai Manager,
    -DO-9, Mitra towers, Kasturba Road,
    Bangalore-S60 001"

    ' H2. Sri.Su%cma:1 Siddique,

    SE0 M.D.Siddique, No.71,

    Brigade mad, Bangalore-S60 001 .
    ...RESPONDENTS

    (By S1i.U.Abdul Khader, Adv ft}! R1)



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This M.F.A. is filed under Section 173(1) .6?-,M.V.Act against the judgment and award dated l2.S,.*36Q in M-V.C.No.l784fo-4 on the ☐e of the C}2icf...«I11tiAgé_;;h' Cdurt sf Small Causes, Member, Pr}.MAC'I', Métrep{>§itan:"'«harxea, Bangaie-re(SCCH No.1), partiy a}10wi11g_thaj4_:clg1i:2j:' p1e1;'iti'(§:;3 V' f€}:r__ compensation and seeking enha-ncem¢nt--'_4e1"_Vc<j;:3pensatioi;.Awith " 12% interest. i ». _ V This MFA. C€)II'li13g_(}i} f;5'r_h'caringhV Ccurt delivered the fo]§owing:- ' " V "

,gJUHéMENTh"

Th%s appeal is by 'thefél:ii1n:;i§t.n.'::£;éi;i12g ☐n' enl1anceme1m: of"-<;0i':;';3c'n3$ziiii}z1:hbsiiihgg "satisfied with the award passed by the Judge, Court at' Small Causes, C }'B££3';§a§é'..'E i1a1V"M'v'C 'No. 1 784504. The claim petitinn was ☐ed under Saction }63--A inf AA _ the☐h/IV Act for the 'in_iuries sustained by the ciaimant in the VV haeter vehicle accident that eccurred on .1 .3134 arcmnd 12.00 pm. when the claimant and his mother were waiking can the side of the road wherein a car bearing NQKAO3 A 3141 came W in a rash and negligent manner and daelted agan3sv!:V{l1le'*s;lain1a:at due to which he sustained grievous injuries The Tyibunal based on the ___H... s_cl1ec_'s1ile" ll ccmpensaticn of Rs.85,4S(}2'-Zthlwajfdsll " The claimant being fell ._sati§☐ad' qigiantum cf compensation awarded amlhn ll_tl2eV"g::*011ncll1:'n.at is entitled fer higher compensation :claili1~ Hpeti☐on was ☐ed under Section the;?_M«:'3tcf laas c.£)me up beibre this Tlxe Counsel fer the appcllarst ☐ed an application seekiiggzffcr conversion of the application to one under" Section 2 ., 'of the M.V.Act for which learned Counsel for 'the H insurance company has vehemently contended that after the award has been passed nu such application could be filed seeking for conversiezl- The claimant said 'tn have sutlbred disability 1:9 the extent of 25% to the whale hardy and also apart ' W from that he has sustained three fractures, According to the learned Counsei fer the appeilast the elaima1;tV_ha_s net been suitably awarded under Seeticm i63-A of 'tend that referring to the spot panehanama and varicms c:the17'reeefds'and also the nature of injuries sustained'tt1e«_?TriAbttj1a.tetiglgt directed to convert theV.eap_plicstiovti'-- to': ef the M.V-Aet- In this regarddddddhehas aise teiied {£3011 the decisinn rendered by tI1Ve"«-_..i)i\g*itt_iL013»' this Court in MFA No.2676f(}?' disposaaetnn dd5';.f',§.n_ ttte ratieddtaid dawn by this Court stating that ttle, Ttiibtinat directed the parties ta convert the J _{ ' "petitien'"teV_V_e1§1e utader Section 166 of M.V.Aet instead of 163-14; _s1t3ee.4véive'arding of eompensatien is a social grieee (.af1egis3ation, ' the'd."IL;;At.[::.fisted seeking for cmwetsion of the petition to the one ,. Seetimz 166 ofthe M32'. Act is allewed and the Tribzznal A ; is directed to; treat the petition as the em: under Seetivm 166 of the MV Act. ☐+

6. Ascofdiugly, appeal is allowed and the n1attcz' is remanded back to» the Tribunal to reconsider the I☐ift☐+ afresh while retaining the quantum of cempens..ation'~'ai£;:r§£éd:écséd to award suitable compelxsation if the c]aima;--:t :i:$.,VS<:--?.§§:z1t-itlétd. It fer the parties to contest the r:t'»1__:.-1ttc*_:1rT<.;1i::1 5:1" c§)i1:z't's; :1x;(i'=;§;a' !ea(;§ f further evidence- Thti Tfiiizg☐ai Shali Vdisg)<3é:[e'v«--r.2i': the maj£te:* within thrae months t'!'01i}..._fH(::.._ti21.§c <:i"1'cx;<_}Ai;1A1iv§<'1t' £'inés {:>=rdz::r Parties to co-operate' 59:' .