
(2010) 02 CHH CK 0036
In the Chhattisgarh High Court
Case No : M.A. No. 362 of 1998

Abhiram Jha

APPELLANT

Vs

Jhumuk Lal Gond and Others

RESPONDENT

Date of Decision : 16-02-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 171

Citation : (2011) 4 MPJR 23

Hon'ble Judges : Rajeev Gupta, C.J.; Sunil Kumar Sinha, J

Bench : Full Bench

Advocate : P.S. Koshy and Mr. Vinod Deshmukh, for the Appellant; Dashrath Prajapati, Advocate for respondents No. 1 and 2, Mr. Shreekumar Agrawal with Mr. Anand Gupta, Advocate for respondents No. 3, for the Respondent

Final Decision : Allowed

Judgement

Rajeev Gupta, C.J.—This is claimant's appeal for enhancement of the compensation awarded by the motor accident claims tribunal, Khairagarh, District Rajnandgaon (for short "the Tribunal") vide award dated 10.01.1998, passed in claim case No. 01/1992. As against the compensation of Rs. 10,60,000/- claimed by the appellant/claimant, by filing a claim petition u/s 166 of the motor vehicles act, for the injuries sustained by him in the motor accident on 24.03.1991, the tribunal awarded a total sum of Rs. 95,000/- as compensation along with interest @ 12% per annum from the date of award till the date of actual payment.

2. The tribunal on a close scrutiny of the evidence led by the parties held that claimant Abhiram Jha sustained multiple grievous injuries in the motor accident on 24.03.1991; the accident occurred due to rash and negligent driving of the driver of the jeep in which the claimant was travelling; as the jeep on the date of accident was insured with New India Assurance Company Limited, the Insurance Company was liable to pay compensation to the claimant.

3. The tribunal considering that the claimant could not establish that injuries sustained by him in the motor accident resulted in any permanent disability, awarded a total sum of Rs 95,000/- as compensation.

4. Shri P.S. Koshy and Shri Vinod Deshmukh, learned counsel for the appellant vehemently argued that the tribunal has erred in awarding low composition of Rs. 95,000/- only; and in awarding interest on the above amount of compensation from the date of the award.

5. Shri Shreekumar Agrawal, learned senior counsel for respondent No. 3 - New India Assurance Company Limited supported the award and contended that the compensation of Rs. 95,000/- awarded by the tribunal is just and proper compensation in the facts and circumstance of the present case.

6. Shri Dashrath Prajapati, learned counsel for respondents No. 1 and 2 also supported the award.

7. As the respondents have not filed any appeal against the award, the findings recorded by the tribunal that the appellant/claimant sustained injuries in the motor accident on 24.03.1991; the accident occurred due to rash and negligent driving of the driver of the jeep and the insurer of the jeep was liable to pay compensation to the claimant, have now attained finality.

8. Claimant Abhiram Jha, on the date of accident and even thereafter, was in the service of Hindustan Copper Limited. The tribunal has found that in spite of the claimant having sustained injuries in the motor accident, he continued to get same salary as he was getting prior to the accident. The claimant in para 4 of his cross - examination categorically admitted that he has not produced any bill in regard to the expenses incurred on his treatment before the Tribunal. He further admitted that the entire medical expenses were reimbursed by his employer company.

9. On due consideration of the submission of learned counsel for the parties and nature of the injuries found to have been sustained by the appellant/ claimant in the motor accident, we are of the opinion that compensation of Rs. 95,000/- awarded by the tribunal is just and proper compensation in the fact and circumstances of the present case.

10. So far as award of interest on the amount of compensation is concerned, Section 171 of the Motor Vehicles Act, which provides for award of interest, reads as follows:

171. Award of interest where any claim is allowed - where any claim tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.

11. The main purpose for award of interest on the amount of compensation is to

compensate the claimant/claimants to some extent for the delay which occurred in the matter. True, the above quoted Section 171 of the motor Vehicles Act vests discretion in the tribunal to decide the rate of interest and the date from which the interest is payable, ordinarily the interest is award from the date of filing of the claim petition. It is only in exceptional cases where the tribunal comes on the conclusion that the delay in disposal of the claim petition was solely and wholly attributable to the claimant/ claimants, the interest is made payable from the date of the award and not from the date of filing of the claim petition.

12. In the present case, the tribunal has not recorded a finding in the impugned award that the delay in the matter was solely and wholly attributable to the claimant. The tribunal, as such, ought to have awarded interest on the amount of compensation to the claimant from the date of filling of the claim petition.

13. Considering all the relevant factors, we awarded a quantified amount of Rs. 10,000/- towards interest on the amount of compensation for the period from the date of filing of claim petition till the date of the award.

14. For the foregoing reasons, the appeal filed by the appellant/ claimant for enhancement of the compensation is allowed in part while maintaining the amount of compensation of Rs. 95,000/- awarded by the tribunal, a further sum of Rs. 10,000/- is awarded to the claimant towards quantified amount of interest on the amount of composition of Rs. 95,000/- awarded by the tribunal for the period between the date of the claim petition and the date of the award.

15. Respondent No. 3 New India Assurance Company Limited is granted three month's time for depositing the total sum of Rs. 10,000/- before the concerning claims tribunal. No under as to costs.