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**(2006) 02 RAJ CK 0029**  
**In the Rajasthan High Court**

Abid Sageer

APPELLANT

Vs

Surgyan Sharma and Others

RESPONDENT

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**Date of Decision :** 07-02-2006

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 173

**Citation :** (2006) 3 ACC 377

**Hon'ble Judges :** G.S. Sarraf, J

**Bench :** Single Bench

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## Judgement

G.S. Sarraf, J.—This is an appeal of the claimant-appellant u/s 173 of the Motor Vehicles Act, 1988 against the judgment/award dated 14.6.1996 of the Motor Accident Claims Tribunal, Kotputali, District Jaipur.

2. According to the claim petition filed by the claimant-appellant in the g Tribunal the facts briefly are that on 20.12.1993 the claimant-appellant along with other persons was travelling in his car No. RJ-14-C-9396 from Delhi to Jaipur. The truck No. RRA 7384 being driven by respondent No. 1 rashly and negligently hit the car at about 6 a.m. near Manoharpur, as a result of which the claimant-appellant suffered multiple fractures in his right hand and feet and his right eye was completely damaged and he also suffered various other injuries. The truck belonged to the respondent Nos. 2 and 3 and respondent No. 4 is the Insurance Company. The Tribunal after hearing the parties held that the accident occurred due to rash and negligent driving of the respondent No. 1 and awarded a compensation of Rs. 2,72,394 to the claimant-appellant. Aggrieved by this judgment/award the claimant-appellant has filed this appeal.

3. Mr. Mahendra Goyal, learned Counsel for the claimant-appellant submitted that the claimant-appellant has suffered 60% disability on account of loss of vision of right eye and 18% disability on account of fractures of right leg and left hand but the compensation awarded by the Tribunal is grossly inadequate. He has argued that the Tribunal has erred in not allowing compensation for loss of earning and earning capacity. He has also submitted that before the accident he

was engaged with girl of Aligarh City in Uttar Pradesh but after the accident the engagement was broken on account of his disability. He has, therefore, prayed for enhancement of the compensation amount. He has placed reliance on 1993 (3) T.A.C. 219.

4. Mr. Ram Singh Counsel for the respondent has stated that the judgment/award of the Tribunal is correct on facts and law and, therefore, there is no ground for interference.

5. The Tribunal has awarded compensation to the claimant-appellant as under:

(a) Medicine Rs. 1,97,394

(b) Hospital expenses and expenses incurred on diet, travelling and also expenses incurred on account of helper Rs. 25,000.

(c) Permanent disability Rs. 50,000 Total Rs. 2,72,394

6. The claimant-appellant in his statement recorded by the Tribunal stated his earning to be Rs. 12,000 a month but the Tribunal held that the fact that the claimant-appellant earned Rs. 12,000 a month was not proved. On the basis of the evidence available on record I am not inclined to disagree with the view of the Tribunal. I understand that the Tribunal has awarded Rs. 50,000 on account of permanent disability after taking into consideration the disability due to loss of vision of right eye and the disability due to fractures of right leg and left hand and also the loss of earning and earning capacity of the claimant-appellant. In view of this, there does not appear any justification for awarding any additional amount on account of loss of income or earning capacity. No doctor has been examined and the learned Tribunal has awarded Rs. 50,000 after considering all the facts and circumstances of the case and, therefore, there is hardly any scope for increase in this respect. As regards damages claimed on account of broken engagement, it is enough to say that since no name of the girl or her parents has been disclosed either in the claim petition or in the statement of the claimant-appellant there is hardly any justification for awarding damages on this count.

7. Thus, the above discussion makes it clear that there is no force in the arguments of the learned Counsel for the claimant-appellant and as such there is no ground for interference in the judgment/award of the Tribunal.

8. In the result, the appeal of the claimant-appellant fails and the same is dismissed accordingly.