

(2006) 11 MP CK 0027
In the Madhya Pradesh High Court

Anil Kumar

APPELLANT

Vs

Adani Exports Ltd. and Others

RESPONDENT

Date of Decision : 15-11-2006

Acts Referred:

Citation : (2008) ACJ 1665

Hon'ble Judges : Shahi Kant Kulshreshtha, J;S.K. Seth, J

Bench : Division Bench

Judgement

S.K. Kulshrestha and S.K. Seth, JJ.—In this appeal, a student of Bachelor of Engineering on 27.9.2004 was involved in a motor accident. It is not in dispute that he sustained grievous injuries, when the vehicle No. MP 09-V 6068 in which he was travelling overturned on account of rash and negligent driving of respondent No. 2. It is also undisputed before us that at the relevant time vehicle belonged to respondent No. 1 and was insured with respondent No. 3. Learned Member, Motor Accidents Claims Tribunal, Indore after going through evidence awarded Rs. 5,15,000 as against the claim of Rs. 20,00,000. In this appeal for enhancement, the question is what damages should be awarded.

2. On account of the accident, appellant sustained spinal cord injury, i.e., fracture of C5 and C6 and developed quadriplegia, which according to Dorland's Pocket Medical Dictionary, 21st Edn., means tetraplegia and in the same book, the meaning ascribed to tetraplegia is paralysis of all four extremities. This is evident from Exh. P377 certificate given by orthopaedic surgeon, Dr. Jayant Sharma, PW 2, one of the doctors who treated appellant during the prolonged medical treatment. According to the certificate, appellant has sustained 95 per cent permanent disability and has to live with it for the remainder of his life. He would also require vigorous physiotherapy and nursing care in future. The question, therefore, is what damages should be awarded.

3. After having heard arguments and going through the record, it is clear to us that the impugned award errs on the lower side and deserves enhancement. From the evidence, it is clear that before applicant could bloom, every hope and

aspiration is nipped in the bud and applicant is now forced to lead life, wholly dependent on others. In this view of the matter, we feel, Rs. 25,000 awarded by the Tribunal for pain and suffering deserves to be enhanced to Rs. 50,000. Similarly, looking to the scholastic record and loss of future prospects, appellant is entitled to Rs. 3,00,000 for the loss of income, instead of Rs. 2,40,000 awarded by Tribunal. Appellant has also filed bills showing that after the award was passed by Tribunal, he had to undergo medical treatment and spend Rs. 1,84,000 which is rounded off to Rs. 1,85,000. He is entitled to recover the same from respondents. Thus, appellant is entitled to get a total sum of Rs. 50,000 + Rs. 3,00,000 + Rs. 1,85,000 + Rs. 2,50,000 = Rs. 7,85,000 from the respondents jointly and severally.

4. In view of the foregoing discussion, this appeal is partly allowed to the extent as indicated above. The enhanced amount shall carry interest at the rate of 6 per cent per annum from the date of the application till it is actually paid to the appellant. Other directions of the Tribunal for disbursement shall remain unaffected. Appellant shall also be entitled to recover costs of these proceedings. Counsel's fee Rs. 1,500.