
(2003) 06 MP CK 0027

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 1706 of 2002

Babulal

APPELLANT

Vs

Sheikh Raheem and Others

RESPONDENT

Date of Decision : 23-06-2003

Acts Referred:

Motor Vehicles Act, 1988 — Section 168, 173

Citation : (2004) 1 ACC 201 : (2003) 4 MPHT 175

Hon'ble Judges : A.M. Sapre, J

Bench : Single Bench

Advocate : P.M. Jain, for the Appellant;

Final Decision : Dismissed

Judgement

A.M. Sapre, J.—This is an appeal by claimant against an award dated 30-7-2002, passed by learned Additional Member, Motor Accidents Claims Tribunal, Khargone, in Claim Case No. 122 of 2001, whereby he has been awarded a sum of Rs. 2300/- towards the injuries and expenses incurred by him consequent upon the injuries that he has suffered. He is not satisfied with what is awarded to him by the Claims Tribunal and has come up in appeal u/s 173 of the Motor Vehicles Act for claiming more compensation. So the question that arises for consideration in this appeal is, whether any case for enhancement is made out and if so, to what extent ?

2. Heard Shri P.M. Jain, learned Counsel for the appellant.

3. The case of the claimant is dealt with in Paragraph 31 of the impugned award which decides several other claim petitions because all these claim petitions arose out of the same accident in which claimant was also involved. It was held on the basis of the evidence adduced by the parties that the claimant in this case was in hospital only for two days and has been awarded a sum of Rs. 1250/- towards his medical expenses. It was further taken note of by the learned Member of the Tribunal that claimant did not examine any doctor to support his

case or the nature of the injuries and resultant loss suffered by him. Taking into account all facts and circumstances of the case, the learned Member of the Tribunal found that a sum of Rs. 2300/- is sufficient for the injuries, pain and suffering that the claimant has suffered in the accident.

4. I am inclined to concur with the finding of the Tribunal on this issue and hold that no case for enhancement is made out. In the accident cases, what is relevant is not causing of an injury in itself, but its resultant disability, whether partial or permanent. If the claimant is unable to prove the resultant loss and the disability occurred on account of the injuries suffered by him, he can not be awarded compensation except to the extent provided under some of the heads, i.e., for pain and sufferings and for the expenses incurred etc. The questions, whether the claimant has suffered any injury in the accident ? Whether it is partial or permanent ? have to be proved with reference to the medical evidence and with perfect proof in support thereof. In such cases, the examination of a doctor plays an important role for determining compensation payable on account of the loss sustained by the claimant. When it is taken note of in this case that claimant has failed to prove the so called disability as he failed to examine any doctor, mere submission of a certificate was not a substitute for medical evidence.

5. If the claimant was in the hospital only for two days, this itself goes to show that he did not suffer any injury of serious nature, or one may say of partial/permanent nature. Be that as it may, looking to the nature of injuries that he sustained, a sum of Rs. 2300/- was found quite reasonable and proper. None of the injuries claim to have suffered by the claimant resulted into permanent disablement or disfigurement of his body. God has been kind to him that he has survived miraculously. He should, therefore, feel satisfied in what is awarded to him. It can not be said to be on a very low side. A sum of Rs. 2300/- awarded towards expenses of purchasing some medicines and pain and suffering is reasonable, legal and proper and does not call for any enhancement.

5. Appeal, thus, fails and is dismissed in limine.