

(1999) 01 RAJ CK 0051

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 531 of 1991

Bhagwan Singh Meena

APPELLANT

Vs

Jai Kishan Tiwari and Others

RESPONDENT

Date of Decision : 04-01-1999

Acts Referred:

Citation : (1999) ACJ 1200

Hon'ble Judges : D.C. Dalela, J

Bench : Single Bench

Advocate : B.C. Rawat, for the Appellant;

Judgement

D.C. Dalela, J.—None has appeared for the respondents. Therefore, the arguments of the learned Counsel for the appellant have been heard.

2. This is an appeal for enhancement of the amount of compensation, awarded by the learned Motor Accidents Claims Tribunal, Jaipur. In this case, the appellant-claimant sustained severe and serious injuries on account of the accident. His right leg had to be amputated. The learned Tribunal has awarded Rs. 20,000 as pecuniary damages and Rs. 1,30,000 as non-pecuniary damages. Thus, a total compensation of Rs. 1,50,000 has been awarded. Hon'ble Supreme Court in the case of R.D. Hattangadi Vs. M/s. Pest Control (India) Pvt. Ltd. and Others, has laid down as under:

Broadly speaking, while fixing an amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts, pecuniary damages may include expenses incurred by the claimant: (i) medical attendance; (ii) loss of earning of profit up to the date of trial; (iii) other material loss. So far as non-pecuniary damages are concerned, they may include (i)

damages for mental and physical shock, pain and suffering already suffered or likely to be suffered in future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters, i.e., on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life, i.e., on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.

In the above case, Hon"ble Supreme Court has awarded non-pecuniary special damages of Rs. 3,00,000. In the case of Dr. Gop Ramchandani Vs. Onkar Singh and Others, this Court has awarded a compensation of Rs. 3,00,000 on account of non-pecuniary special damages, when there was amputation of one leg. Here, in the present case in hand, one leg of the claimant-appellant was amputated. Therefore, on the analogy of the decision in the case of Gop Ramchandani (supra), the claimant-appellant is entitled to a compensation of Rs. 3,00,000 on account of non-pecuniary special damages. In the case of Jitendra Singh Vs. Islam and Others, this Court has again awarded non-pecuniary special damages of Rs. 3,00,000 in the case of amputation of one leg. Therefore, non-pecuniary special damages of Rs. 3,00,000 are awardable in the present case in hand. So far as pecuniary damages are concerned, the learned Tribunal has assessed a sum of Rs. 20,000, which does not require any interference. Therefore, the total amount of compensation awardable in this case is Rs. 3,00,000 + Rs. 20,000 = Rs. 3,20,000. The award of the learned Tribunal is required to be enhanced accordingly.

3. In the result, the total amount of compensation is enhanced to Rs. 3,20,000, from that of Rs. 1,50,000 as awarded by the learned Tribunal. The award of the learned Tribunal shall stand modified to this extent. The other part, terms and conditions of the award, are maintained.