
(1986) 02 MP CK 0027

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 104 of 1983

Dr. Ravi Agrawal

APPELLANT

Vs

M.P. Rajya Parivahan Nigam, Bhopal and Another

RESPONDENT

Date of Decision : 06-02-1986

Acts Referred:

Motor Vehicles Act, 1939 — Section 110B

Citation : AIR 1987 MP 48

Hon'ble Judges : K.K. Verma, J;G.G.Sohani, J

Bench : Division Bench

Advocate : Sujan Jain, for the Appellant; M.L. Dhupar, for the Respondent

Final Decision : Partly Allowed

Judgement

R.K. Varma, J.—This is a miscellaneous appeal u/s 110-A Motor Vehicles Act, 1939, filed by the claimant-appellant against the award dt. 8-12-1982 passed in Claim Case No. 162/80 by the learned Member, Third Motor Accidents Claims Tribunal, Indore.

2. The appellant-claimant, who was posted as an Assistant Surgeon/Casualty Medical Officer at M. Y. Hospital, Indore, at the relevant time, filed the present petition for compensation amounting to Rs. 86,500/-for bodily injuries sustained by him in a motor accident which took place on Bombay-Agra Road near the building of G.P.O. Indore. On 22-2-1980, non-applicant 2 was driving the bus No. MFC 7368 belonging to non-applicant 1 from Bhagora to Indore and when the bus crossed the G.P.O. cross-road at about 10.00 a.m., a collision took place between the gate of the said bus and the scooter driven by the claimant on Bombay-Agra Road, resulting in grievous injuries to the claimant on his right hand, left thumb and left patella.

3. The learned Tribunal, on appreciation of evidence adduced in the case, found that when the claimant was proceeding on the scooter, the gate of the said bus was opened all of a sudden and the same dashed against the scooter of the

claimant. The conductor of the bus was held to be negligent and responsible for the said accident. As regards the amount of compensation, the learned Tribunal has awarded Rs. 5,000/- only for physical pain and mental agony suffered by the claimant looking to the nature of injuries and duration of treatment. The learned Tribunal, however, observed that the said amount of compensation included the compensation for the insignificant disability suffered by the claimant. It, however, noticed that the statement given by the claimant to the effect that he had suffered the said fractures, found corroboration by the bedhead ticket (Ex. C/2) as well as the entries made in the register of X-Ray taken in the Medico Legal Cases. The learned tribunal held that the claimant had sustained two grievous injuries in the said accident.

4. The learned Counsel for the appellant contends that looking to the injuries sustained by the claimant in the accident, the compensation amount awarded is quite inadequate and that the compensation should be enhanced to at least Rs. 20,000/-. The learned Counsel pointed out that the learned tribunal has failed to consider the extent of permanent disability suffered by the appellant claimant as a result of the accident, in determining the amount of compensation. He referred to the evidence of Dr. V.K. Taorey (CW-4), who was the Consultant at M. Y. Hospital, Indore and who treated the claimant for fractures and had issued the disability certificate giving his estimate of disability of the extent of 5 to 8 per cent. Dr. Taorey (CW-4) has stated that the appellant-claimant was under his treatment from 22-2-1980 to 31-3-1980 for fracture of head of right radius, fracture of base of distal phalanx of left thumb and fracture of left patella. He further stated that X-Rays were taken on 11-7-1981 which showed an old fracture of distal phalanx of the thumb and an old fracture of Upper end of radius as well as an old fracture I of patella of the appellant-claimant. The said deformities or disabilities were of permanent nature. Dr. Taorey has also stated that the disability found on the right elbow will impair his skill as a Surgeon to some extent.

5. Looking to the evidence of Dr. Taorey (CW-4), we are of the opinion that the learned Tribunal has not properly considered the effect of disability on the professional skill of the claimant who is an Assistant Surgeon. The compensation amount should have been determined having regard to the fact that professional skill of the appellant-claimant has been impaired on account of the permanent disability even though to the extent of five to eight per cent as stated by Dr. Taorey (CW-4). In our opinion, the amount of Rs. 5,000/- which has been awarded by way of compensation to the appellant-claimant is inadequate and it ought to be enhanced to Rs. 10,000/- for a just compensation.

6. The cross-objection filed by the respondents which assails the finding of negligent use of the bus in question and the finding of grievous injuries sustained by the appellant-claimant has no force, in view of the clear evidence adduced in the case and proper appreciation of the same by the learned Tribunal.

7. As a result of the discussion aforesaid, the amount of compensation is

enhanced from Rs. 5,000/- to Rs. 10,000/-. Respondent 1 shall pay Rs. 10,000/- to the claimant with interest @ 6 per cent per annum from the date of presentation of the claim petition till the said amount is paid to him. With this modification, the appeal is partly allowed. The respondents shall also bear their own costs and shall pay that of the appellant in this Court as well. Counsel's fee Rs. 250/-, if certified. The cross-objection filed by the respondents is dismissed.