
(2014) 05 TP CK 0045

In the Tripura High Court

Case No : Mac App No. 40 of 2006

Dr. Satyajit Chakraborty Vs Sri Rajib Datta, National Insurance Company Ltd., Dharmanagar Branch and National Insurance Company Ltd., Divisional Office, Agartala, West Tripura

Date of Decision : 27-05-2014

Acts Referred:

Citation : (2014) 05 TP CK 0045

Hon'ble Judges : Deepak Gupta, C.J

Bench : Single Bench

Advocate : S.K. Dutta, Advocate for the Appellant; A. Roy Barman, Advocate for the Respondent

Final Decision : Partly Allowed

Judgement

Deepak Gupta, C.J.—This appeal by the claimant is directed against the award dated 24-01-2006 passed by the learned Motor Accident Claims Tribunal, West Tripura, Agartala in T.S. (MAC) 701 of 2001 whereby the appellant was awarded a sum of Rs. 1,03,000/- along with interest @ 6% per annum from the date of filing of the claim petition.

2. The main grounds raised in this appeal by the claimant are as follows:-

(i) That, the amount of medical expenses has not been properly calculated since the expenditure incurred by the claimant at the private hospital has not been taken into consideration;

(ii) That, the claimant has been awarded a meagre amount of Rs. 30,000/- for special damages on account of pain, suffering etc;

(iii) The last submission is that the claimant who is a Doctor was engaged in private practice and due to the injuries received in the accident, he cannot perform his duties as a private practitioner and there has been loss of income and as such, the compensation be enhanced accordingly.

3. As far as the medical expenses are concerned, the learned Tribunal held that

the claimant had been referred to the Government Hospital, i.e. S.S.K.M. Hospital at Kolkata and if he got himself admitted at the private nursing home, i.e. Woodland Nursing Home, he was not entitled to the expenses thereof. The Tribunal has found that, in fact, the claimant spent an amount of Rs. 2,08,415/- at the Woodland Nursing Home for his treatment, but since the Medical Board of Tripura had assessed only a sum of Rs. 15,000/- for his treatment at Kolkata, the Tribunal allowed a total amount of Rs. 53,000/- to the claimant; Rs. 13,000/- as transportation charges and another sum of Rs. 40,000/- for medical expenses.

4. To say the least, the award of the learned Tribunal is totally incorrect as far as this aspect of the matter is concerned. It is for the injured person to decide where he should get himself treated. The injured can decide to get himself treated at a private hospital or in a Government Hospital. The tortfeasor has no business to dictate as to where the claimant should get his treatment. Unless the expenses of treatment are totally unjustified or unduly high or the petitioner gets himself treated in a Five Star Hospital without there being any need thereof, the tortfeasor cannot urge that the claimant must go to a Government Hospital. The conditions of Government Hospitals are known to all and many times persons get themselves treated at private hospitals.

5. According to the claimant, he could not get himself admitted in the S.S.K.M. Hospital because there was no room available there. Even if that be not the case, then also he did go to the Woodland Nursing Home at Kolkata and got himself treated in a private hospital. The expenditure incurred at Woodland Nursing Home itself is Rs. 2,08,415/-. In addition thereto, the claimant had to spend Rs. 13,000/- for air fare etc. There would be other expenses for attendant charges etc. and, therefore, the compensation on medical grounds is enhanced from Rs. 53,000/- to Rs. 2,53,000/-, i.e. by Rs. 2,00,000/-.

6. As far as pain and suffering is concerned, the claimant remained in hospital for about one month and the amount of Rs. 30,000/- awarded, in my opinion, is just and reasonable. The claimant has not suffered any permanent disability and this amount of Rs. 30,000/- calls for no enhancement.

7. It is lastly urged by Mr. S.K. Dutta, learned counsel for the appellant, that the claimant was a private practitioner and has stated in his evidence that due to the injuries received, he could not practice any further. To say the least, this version of the claimant appears to be wholly incorrect. He is a Doctor employed in Government Service. If he can continue in Government Service, continue to draw his pay and allowances as a Government Employee, how can he say that his private practice has been adversely affected. The claimant who is a Doctor has not produced any disability certificate on record. He has failed to lead any evidence whatsoever to show that he has suffered any permanent disability. His self serving statement that he has lost his memory on the face of it is false because in that very statement he has given very minute details about the accident and the amounts of expenditure incurred by him. If he had lost his memory, he would have lost his memory even for these purposes. Therefore, this

argument cannot be accepted.

8. In view of the above discussion, the appeal is partly allowed. The compensation is enhanced by Rs. 2,00,000/- and consequently, the award is enhanced from Rs. 1,03,000/- to Rs. 3,03,000/-. The Insurance Company has already satisfied the award of the learned Tribunal. It is, therefore, directed to deposit the enhanced amount of Rs. 2,00,000/- along with interest @ 6% per annum from the date of filing of the claim petition, i.e. 05-09-2001 in the Registry of this Court within a period of four months from today.

9. The appeal is disposed of in the aforesaid terms. No order as to costs.

10. Send down the lower court records forthwith.