
(2011) 05 MP CK 0081
In the Madhya Pradesh High Court
Case No : M.A. No. 1500 of 2010

Guddu

APPELLANT

Vs

Ramlal and others

RESPONDENT

Date of Decision : 02-05-2011

Acts Referred:

Workmens Compensation Act, 1923 — Section 20

Citation : (2012) ACJ 1510

Hon'ble Judges : P.K. Jaiswal, J

Bench : Single Bench

Advocate : Manish Jain, for the Appellant; Bhaskar Agrawal and Mr. Pradeep Gupta, for the Respondent

Judgement

P.K. Jaiswal, J.—This appeal has been filed by the claimant for enhancement of compensation against the award dated 1.2.2010 passed by the Second Member M.A.C.T., Ratlam in Claim Case No. 30 of 2009, whereby learned Tribunal awarded a sum of Rs. 1,58,200 as compensation to the appellant. Other findings pertaining to rash and negligent driving of the vehicle and liability of the insurer are not in dispute.

2. It is submitted that due to accident the appellant sustained grievous injuries on various parts, suffered multiple fractures and crush injury. He was hospitalised in Government Hospital, Ratlam and thereafter J.P. Hospital, Udaipur and his left leg was operated and cut down below knee and, therefore, he suffered 60 per cent permanent disability. As per Sr. No. 20 of Workmen's Compensation Act, 1923, the disability of appellant is 50 per cent.

3. Learned counsel for the appellant drew my attention to para 3 of the statement of claimant, AW 1 and submitted that appellant has lost his 100 per cent earning capacity because at the time of accident he was working as labourer with Radhe Shyam contractor and after amputation of left leg below knee he became unfit for labour work which he was doing with Radhe Shyam contractor before accident. Thus, it is submitted that the disablement of appellant is total

100 per cent and not partial, as he cannot do labour work and looking to disability nobody gives him employment. In para 3 of the statement appellant Guddu alias Omprakash, AW 1, has very categorically stated that after his accident he is not getting work and he is sitting idle at home.

4. On the other hand, Mr. Gupta, learned counsel appearing for the respondent insurance company, has relied upon the findings recorded by the Claims Tribunal and further argued that the compensation awarded is just, proper and reasonable.

5. Considering the aforesaid, the loss of earning capacity of appellant is assessed to the extent of 100 per cent.

6. In respect of income of appellant, it is submitted that at the time of accident, i.e., 28.1.2009 earnings of appellant was Rs. 100 to Rs. 150 per day, but in absence of any cogent evidence, learned Tribunal has assessed the income of appellant at the rate of Rs. 18,000 per annum. Considering the fact that the appellant was working as labourer and he must be earning Rs. 80 to Rs. 100 per day, I assess the earnings of the appellant at Rs. 2,500 per month, that is, Rs. 30,000 per annum. At the time of accident, he was 35 years of age and on applying the multiplier of 16 the amount of compensation under the head of loss of earning capacity comes to Rs. 4,80,000. On other conventional heads Rs. 50,200 has been awarded by the Tribunal towards medical expenses, attendant and conveyance charges, pain and suffering, etc. which is just and proper. Thus, the total compensation comes to Rs. 5,30,200 (Rs. 4,80,000 + Rs. 50,200). After deducting the amount already awarded by the Tribunal, the total enhancement of compensation comes to Rs. 3,72,200 (Rs. 5,30,200 - Rs. 1,58,200 = Rs. 3,72,200). In view of the aforesaid, this appeal is allowed in part with costs. The appellant is held entitled to receive a total sum of Rs. 3,72,200 in addition to the amount of compensation already awarded by the Tribunal without affecting the direction of the Tribunal regarding depositing the amount of compensation and liability. Enhanced amount shall carry interest at the rate of 7.5 per cent per annum from the date of application till its realization. Memo of cost be prepared accordingly.