
(2013) 08 GUJ CK 0018

In the Gujarat High Court

Case No : First Appeal Nos. 3404 and 3405 of 2011

Javanbhai Farvatbhai Malivad

APPELLANT

Vs

Mukesh Kumar Amrutlal Patel and Another

RESPONDENT

Date of Decision : 01-08-2013

Acts Referred:

Citation : (2014) 1 ACC 953

Hon'ble Judges : M.D. Shah, J

Bench : Single Bench

Judgement

M.D. Shah, J.—By this first appeals, the appellants herein-original claimants have challenged the judgment and award dated 6.9.2010 passed by the learned M.A.C.T. (Auxi), F.T. Court. No. 3, Vadodara in M.A.C.P. No. 174 of 2004 and M.A.C.P. No. 175 of 2004. The claim petitions were filed by the claimants for getting compensation for the injuries they received in the accident which occurred on 7.1.2004. It is the case of the claimants that on the day of accident, at the relevant time, they were going to Asharam Bapu Ashram on motorcycle. When they reached near Laxmipura village, at that time original opponent No. 1-driver of the car came from opposite side in rash and negligent manner and dashed with the motorcycle. Both the claimants sustained injuries. Therefore, they filed claim petitions. The learned Tribunal after considering oral and documentary evidence by order dated 6.9.2010 partly allowed the claim petitions of the appellants herein - original claimants. Against the said award, the appellants-original claimants have preferred the appeals for enhancement of compensation.

2. It is submitted by learned Advocate for the appellant herein that learned Tribunal has not properly appreciated evidence on record. It is also submitted that Tribunal ought to have considered income of income of the claimant of M.A.C.P. No. 174 of 2004 at Rs. 7,000 per month as he was serving as teacher. It is further submitted that Tribunal has committed error in considering income of the claimant of M.A.C.P. No. 175 of 2004 as Rs. 25,000 per annum instead of Rs.

50,000 per annum. It is also submitted that Tribunal has committed error in considering disability to the extent of 17% of claimant of M.A.C.P. No. 174 of 2004 and disability to the extent of 25% of claimant of M.A.C.P. No. 175 of 2004. Therefore, it is requested to allow both the appeals.

3. Heard learned Advocates for the respective parties. This Court has gone through the judgment and award dated 6.9.2010 passed by the learned Tribunal together with oral as well as documentary evidence on record.

4. It is not in dispute that in the accident, both the claimants received injuries. Claimant of M.A.C.P. No. 174 of 2004 was serving as teacher and he has produced salary slip also. Claimant of M.A.C.P. No. 175 of 2004 was involved in stitching garments. This Court has gone through the decision of Hon''ble Apex Court in the case of Sarla Verma v. Delhi Transport Corporation, reported in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, .

5. Considering the facts and circumstances and considering the income of the claimants, age of the claimants and considering the injuries received by the claimants and evidence on record and ratio laid down by the Hon''ble Supreme Court in Sarla Verma (supra), in opinion of this Court, it would be just and proper to award Rs. 12,000 as additional compensation to the appellant-original claimant of M.A.C.P. No. 174 of 2004 and to award Rs. 13,000 as additional compensation to the appellant-original claimant of M.A.C.P. No. 175 of 2004 and it would meet the ends of justice. In view of above, the first appeals are partly allowed. The appellant-original claimant of M.A.C.P. No. 174 of 2004 is entitled to get additional compensation of Rs. 12,000 with 7.5% interest per annum on the additional compensation from the date of filing of the claim petition. The appellant-original claimant of M.A.C.P. No. 175 of 2004 is entitled to get additional compensation of Rs. 13,000 with 7.5% interest per annum on the additional compensation from the date of filing of the claim petition. Judgment and award dated 6.9.2010 passed by the learned M.A.C.T. (Auxi), F.T. Court. No. 3, Vadodara in M.A.C.P. No. 174 of 2004 and M.A.C.P. No. 175 of 2004 is modified to the aforesaid extent. The remaining part of the judgment and award would remain unaltered. Record and proceedings, if any, be sent to the concerned Tribunal forthwith.