
(2009) 07 MP CK 0004
In the Madhya Pradesh High Court

Keshari Singh

APPELLANT

Vs

Atul Kumar and Others

RESPONDENT

Date of Decision : 30-07-2009

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2010) ACJ 1768

Hon'ble Judges : S.K. Gangele, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.K. Gangele, J.—The appellant has filed this appeal u/s 173 of the Motor Vehicles Act, 1988 against the award dated 27.3.2002 passed by the Fourth Member, Motor Accidents Claims Tribunal, Vidisha in Claim Case No. 18 of 2001 for enhancement of compensation.

2. On 24.1.1999, the claimant Keshari Singh was going to Vidisha from Barbai. Near about 1 1/2 km from Barbai, claimant was dashed by a jeep bearing registration No. MP 02-3432. In the aforesaid accident he received fracture injuries in his left leg. He was taken to Kurbai Hospital, where he was referred to District Hospital Vidisha. Thereafter, claimant filed claim application before the Claims Tribunal claiming total compensation of Rs. 54,45,000.

3. The Claims Tribunal after appreciation of evidence has held that the accident occurred due to rash and negligent driving by the driver of the jeep bearing registration No. MP 02-3432, hence driver and the State of Madhya Pradesh, who is owner of the vehicle, are jointly and severally liable for payment of compensation. After considering nature of injuries, the Claims Tribunal awarded a total compensation of Rs. 5,000 in favour of the claimant.

4. Learned Counsel for the appellant has submitted that the Tribunal has not considered the injuries suffered by the claimant properly and awarded a less compensation.

5. Contrary to this, learned Counsel for the respondent State has submitted that the Claims Tribunal has considered all the evidence on record and awarded a proper compensation, hence the appeal is liable to be dismissed.

6. The father of claimant in his deposition stated that his son had gone to Barbai Bazar. He was dashed by a government jeep and due to the aforesaid accident, his son became unconscious. Thereafter he had been taken to Kurbai Hospital and from there he was referred to District Hospital, Vidisha, where he was admitted. He further stated that when he had gone to lodge a report the inspector of police refused to register the accident. He further stated that driver of the aforesaid jeep had threatened him not to lodge a report and his son was in the hospital for 12 to 13 days and he was also under plaster cover. He also stated that he had sold his land and house for the purpose of treatment of his son. Thereafter his son was admitted at Kurbai and Katni. He also stated that he lodged a report to the Collector, which is Exh. P2 and the Hon''ble Chief Minister, Exh. P3. He further stated that he is a very poor person and life of his son has been spoiled due to the accident. His son could not walk properly and he could (sic) statement deposed that on 24.1.1999 he had gone to Kurbai Bazar. He was dashed by a jeep. In the aforesaid accident, he became unconscious. He was taken to Kurbai Hospital and thereafter he was referred to District Hospital, Vidisha. The driver of the jeep Atul Sharma had taken him to Vidisha Hospital. The driver of the jeep had also threatened him that if he would lodge a report, he will take strong action against him. He further stated that there was fracture in his left leg and he was still feeling pain. He further stated that there was no school in his village and due to the accident, he could not attend the school because he had to go to school on foot. The Tribunal in its own observation has appended a note. It has been mentioned in the note that the claimant could not walk without the help of crutches. There was a hole in the thigh of the claimant and there was also shortening of leg. It has further been observed by the court that the claimant was feeling pain while standing and a stool was offered to him during his deposition. Copy of F.I.R. has been filed as Exh. P7. A case has been registered by the police and charge-sheet was also filed before the court. A copy of the application submitted by the father of the claimant to the civil surgeon has been filed as Exh. P1. In the aforesaid application Dhannalal, father of the claimant, requested to register a report of the case. It has been mentioned in the application that his son met with an accident by a jeep and he was admitted on 24.1.1999, due to the accident the bone of the leg of his son has been fractured. He further stated that he is a poor person. Thereafter, father Dhannalal submitted an application to the Collector for economic assistance. In the aforesaid application, he stated that his son met with an accident and a bone of the left leg of his son has been totally fractured and he was not able to feed his family. The application has been filed as Exh. P2. Another application has been submitted to the Hon''ble Chief Minister, which is Exh. P3. It (sic) has been fractured completely in the accident. X-ray report has been filed. In the X-ray report there is a fracture in the left leg of the claimant.

7. The claimant has not examined any doctor in support of his case, however from the evidence on record, it is clear that the claimant received serious injuries in the accident. The court itself observed that there is shortening in the leg of claimant and he could not even stand properly without support of crutches and he was offered a stool during deposition. The father of the claimant in the application submitted to the Collector, Civil Surgeon and the Chief Minister, has clearly mentioned that the leg of his son had been fractured. Looking to the aforesaid facts of the case, in my opinion there was permanent disability to the claimant on account of injuries suffered by him in the accident. There was also a shortening in his leg. Looking to the nature of injuries and the fact that father of the claimant is a very poor person, in my opinion, it would be just and proper to enhance the award to Rs. 1,50,000 in favour of the claimant.

8. Consequently, the appeal of appellant is allowed to the extent that the appellant is entitled to get total enhanced compensation of Rs. 1,50,000 (rupees one lakh fifty thousand). The enhanced amount shall carry interest at the rate of 8 per cent per annum from the date of filing of claim application before the Claims Tribunal up to the date of realization. 50 per cent of the enhanced amount be kept in fixed deposit for a period of five years. The rest of the terms and conditions will be as per the award passed by the Claims Tribunal. The impugned award is modified to the extent as indicated above. No order as to costs.