
(1999) 10 MP CK 0019
In the Madhya Pradesh High Court

Leelabai	Vs	APPELLANT
Suraj Singh and Others		RESPONDENT

Date of Decision : 08-10-1999

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2000) 1 ACC 136

Hon'ble Judges : A.K. Gohil, J

Bench : Single Bench

Judgement

A.K. Gohil, J.—Appellant Leelabai has preferred this appeal u/s 173 of the Motor Vehicles Act, 1988 for enhancement of compensation in Claim Case No. 243/ 96 in which the learned 3rd Addl. Member of Motor Accident Claims Tribunal, Dewas had passed an Award on 24.9.1997 and has awarded a claim of Rs. 4,300.00 with interest @ 12% per annum from the date of claim petition dated 13.7.1989 till the payment of the amount, excluding the period of three years for the remaining period.

2. The case of the appellant, in brief, is that she filed a Claim Case No. 243/ 96 (old No. 85/89) before the learned 3rd Additional Member of Motor Accident Claims Tribunal, Dewas for claiming the compensation of Rs. 57,000/- and interest thereon. The appellant is a labourer. On 15.5.1989 in the night at about 11.00 p.m. she had gone to lift gas lantern from the Barat procession of Rafique with Wahidali of M/s. Juganu Light House. Barat was staying in the agricultural field. All Bandwalas and Gaswalas were sitting there. One tractor, bearing registration number CPU 3273, which is owned by respondent No. 1 and being driven by respondent No. 2 rashly and negligently, came in reverse and dashed the appellant. She was badly injured. Immediately she was taken to District Hospital, Ujjain where she was admitted for about 15 days. In the aforesaid accident, the appellant received injuries in her left eye and right leg. There was also a fracture in right hand. Her services were hired for the Barat procession for a day at the rate of Rs. 15.00. She is a poor girl and earning Rs. 15.00 per day.

At the time of accident, the age of the appellant was 12 years. In the application she had claimed Rs. 4,000/- towards the medical expenses and Rs. 3,000/- towards loss of earnings and Rs. 50,000/- towards the general damages. The case was contested by all the respondents. The learned Member of the Tribunal gave a finding that the aforesaid vehicle-tractor was wrongly and negligently reversed and the accident had occurred. Leelabai received serious injuries and the learned Member of the Tribunal awarded a sum of Rs. 1,000/- towards the treatment expenses, Rs. 3,000/- towards pain and sufferings and Rs. 300/- towards the loss of earnings for 15 days.

3. I have heard the learned Counsel for the parties and perused the record and evidence. There is no dispute about the findings recorded by the learned Member of the Tribunal about the rash and negligent driving of the tractor by respondent No. 2. There is also no dispute about the injuries received by the appellant. Looking to the statement of Leelabai that she was admitted in the Hospital for about 15 days and there was a fracture in her right hand and because of the fracture she is not able to work properly. X-ray and medical reports were produced before the Tribunal. In view of the undisputable facts and evidence on record, the compensation granted by the Tribunal is on the lower side. From the evidence it is clear that there is no permanent disablement of any kind but it is true that she was admitted in the Hospital for 15 days and looking to the evidence that due to fracture in her right hand she could not work for whole year. It is also not disputed that the appellant is a labourer and earning Rs. 15/- to Rs. 20/- per day. Therefore, in view of the evidence on record, amount of compensation is enhanced from Rs. 4,300/- to Rs. 10,000/- in total towards all the claims, like loss of earnings, general damages and expenditures on treatment.

4. In the result, the appeal is allowed and the amount of compensation is enhanced to Rs. 10,000.00. The appellant shall also be entitled for interest on the aforesaid amount of Rs. 10,000/- from 13.7.1989 till its payment @ 12% per annum. The respondent Insurance Company is directed to pay the balance amount of enhanced compensation within a period of two months from today. In case of nonpayment of enhanced compensation in two months, they will be liable to pay interest @ 18% per annum till its payment. Counsel's fee Rs. 500/- if certified. Record be returned.