
(1990) 02 MP CK 0049
In the Madhya Pradesh High Court
Case No : M.A. No. 94 of 1986

Madho	Vs	APPELLANT
Uttamvir Singh and Others		RESPONDENT

Date of Decision : 19-02-1990

Acts Referred:

Motor Vehicles Act, 1939 — Section 110D

Citation : (1992) ACJ 65

Hon'ble Judges : R.C. Lahoti, J

Bench : Single Bench

Advocate : Pratap Singh, for the Appellant; J.P. Sharma and P.L. Dubey, for the Respondent

Final Decision : Allowed

Judgement

R.C. Lahoti, J.—This is an appeal u/s 110-D of the Motor Vehicles Act, 1939 by a claimant aggrieved by an award of the Tribunal whereby an amount of Rs. 5.040/- with interest at the rate of 6 per cent per annum from the date of the application has been awarded to him.

2. It is not disputed that on 19.4.1982 the claimant/appellant was engaged as a cleaner on a truck (CPH 7886) owned by the respondent No. 1, driven by the respondent No. 2 and insured with the respondent No. 3 for an amount of Rs. 50.000/-. The truck met with accident on 19.4.1982 wherein the appellant suffered crush injuries of both the legs. The Tribunal has held that the cause of the accident was negligent driving of respondent No. 2. While assessing the quantum of compensation, the Tribunal held that the case of the appellant was covered by Schedule IV of the Workmen's Compensation Act whereunder the claimant should have been awarded an amount of Rs. 12,600/- only inasmuch as the loss of efficiency of the claimant has been 40 per cent, the quantum has been fixed at Rs. 5.040/- only.

3. From the evidence recorded the relevant facts found proved by the court

below are that the claimant had suffered crush injuries of both the legs; though the claimant was treated at the Medical College, yet there was mal-union of bones in both the legs, also muscular deformity of the right leg. In spite of recovery, the claimant could move slowly without any support but with a limp. He cannot now lift and carry heavy articles though he can lift light weight articles and can engage himself in such labour as does not require movement. He had to remain under plaster for about 3 months and for treatment for about 6 months. He was between 30 and 35 years of age at the time of the accident and earning Rs. 390/- per month. These findings are well considered findings of fact recorded by the Tribunal and have not been challenged before this Court; rightly in the opinion of this Court.

4. Two questions arise for determination in this appeal. Firstly, whether the Motor Accidents Claims Tribunal was bound by Schedule appended to the Workmen's Compensation Act while determining the quantum of compensation u/s 110-A of Motor Vehicles Act, 1939, and if not, then what should be the appropriate quantum of compensation.

5. On the first point fortunately we have two Division Bench decisions of this Court, namely, Mangilal Vs. Pramod and Another, and Divisional Engineer M.P. Electricity Board and Another Vs. Mantobai, . It has been held that in the event of claimant suffering injuries in an accident having choice of forum under the Motor Vehicles Act, 1939 and the Workmen's Compensation Act, 1923, he may have chosen either of the two and in the event of claim being prosecuted under the Motor Vehicles Act, the liability would be determined according to law applicable to that forum and cannot be restricted to the quantum payable under the Workmen's Compensation Act. The learned Counsel for the insurance company has cited a few decisions from different High Courts taking a view that in the event of the claim being determinable under the Workmen's Compensation Act, even the Motor Accidents . Claims Tribunal was bound to fix the quantum of compensation consistent with the Schedule under the Workmen's Compensation Act, but I am bound by the view taken by the Division Bench of this Court and hence the decision cited by the learned Counsel for the insurance company need not be referred to.

6. In Abdul Razzaque v. Jagdish (1981) 1 MPWN 205, an injured, 28 years of age having suffered loss of earning capacity by 50 per cent on account of the accident was awarded an amount of Rs. 33,000/- by way of compensation. Keeping in view several other cases cited at the Bar, I am of the opinion that in view of loss of earning capacity of the claimant by 40 per cent, his age and other factors, an award of Rs. 25,000 would meet the ends of justice.

7. The rate at which interest has been awarded to the claimant has also to be enhanced keeping in view of the law laid down by the Apex Court and this Court in series of decisions. [See Lachiyabai Vs. Darshan Singh and Another,) and Devji and Others Vs. Anwarkhan and Others,

8. The appeal is allowed. The amount of compensation payable to the claimant/appellant is fixed at Rs. 25.000/- to be payable with interest at the rate of 12 per cent per annum from the date of the application, i.e., 27.9.1982 till realisation. The claimant shall also be entitled to the costs of this appeal. Counsel's fee fixed at Rs. 500/-. The liability shall be of the insurance company to satisfy the award.