

(2000) 10 MP CK 0022

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 487/91

Madhya Pradesh State Road Transport Corporation and
another

APPELLANT

Vs

Chandra Prakash and another

RESPONDENT

Date of Decision : 18-10-2000

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2001) 2 MPHT 137

Hon'ble Judges : Bhawani Singh, C.J.;A.K. Mishra, J

Bench : Division Bench

Advocate : Shri P.K. Mishra, for the Appellant; Shri Mohan Tamaskar, for the Respondent

Final Decision : Dismissed

Judgement

Bhawani Singh, C.J.—This appeal arises out of the award dated 15-7-91 passed by Motor Accident Claims Tribunal, Vidisha. Chandraprakash (minor) filed claim petition through guardian Ram Vishal Sharma (father) for compensation of Rs. 13,63,453/- before the Claims Tribunal stating that on 30-11-82 at about 10.30 A.M. when he was going on the road, bus No. CPW 6955 owned by Madhya Pradesh State Road Transport Corporation (M.P.S.R.T.C.) and driven by Prem Singh came from opposite side and crushed the neck and leg of the claimant. Due to this accident claimant suffered disability. It is alleged that the accident took place due to rash and negligent driving by the driver. He was treated at Vidisha and Hamidia Hospital, Bhopal. Respondent stated that claimant crossed the road and due to the error of judgment struck against the rear wheel of the bus and sustained injury. Vehicle was not driven rashly and negligently, therefore, liability for committing accident and paying compensation is denied. Apart from that, he stated that compensation claimed is excessive and arbitrary. Tribunal has accepted the claim to the extent of Rs. 100000/- (one lakh) carrying interest at the rate of 12% per annum from the date of application till payment.

M.P.S.R.T.C. is not satisfied with the award, therefore, this appeal challenging the same.

2. Heard the counsel for the parties. Perused the record. Evidence clearly points-out that the claimant suffered injury when bus struck against him. Obviously, when claimant was moving on the road, bus should have been driven carefully. Assuming that the child crossed the road, that would not absolve the driver from committing the accident while driving the bus and resulting in injuries to the claimant. Rashness and negligence on the part of the driver is established. Now the question is whether just compensation has been paid by the Tribunal in this case. Claimant suffered serious injuries on the neck and fracture of the leg particularly the foot. Disability is of permanent nature. Seriousness of the injury to the foot has been noticed by the Claims Tribunal when claimant was produced by his father in the Court on 27-9-91. It is recorded in the order sheet of the day that claimant was produced by his father in the Court in lap. He was completely infirm disabled and incapacitated. His one foot had bend at several places. With these injuries, compensation paid to the claimant is absolutely just and reasonable.

3. Consequently, the appeal is dismissed. Payment be made to the claimant within two months from today. Cost on parties.

4. Misc. Appeal dismissed.