
(2000) 07 MP CK 0009
In the Madhya Pradesh High Court

Mazhar Hussain

APPELLANT

Vs

Shantilal and Others

RESPONDENT

Date of Decision : 24-07-2000

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2003) 1 ACC 421

Hon'ble Judges : A.M. Sapre, J

Bench : Single Bench

Judgement

A.M. Sapre, J.—Claimant is the appellant in this appeal. He is aggrieved by the award rendered by the learned Member of Tribunal awarding him less compensation for the injuries which he sustained. In all, he was awarded Rs. 13,000/-. According to claimant, it is less. He wants more and hence he is in appeal u/s 173 of Motor Vehicles Act. The impugned award is dated 21.4.2000, passed by learned IInd A.M.A.C.T., Mandsaur, in Claim Case No. 147/97.

2. The only issue involved in appeal is whether compensation awarded to claimant is adequate or inadequate. The other issues such as negligence or liability are not in dispute nor urged. Rather they are in favour of appellant and not being assailed by the respondents either in cross objection or in appeal, they have become final and need not be gone into nor discussed.

3. The injury sustained by claimant in the accident was in his left leg. The Tribunal was of the view that accident in question occurred in 1992 but the claimant filed certificate of disability dated 7.5.1994 (i.e. of the two years late.) This according to Tribunal does not carry any weight and hence not acceptable. It was also found that claimant though claimed to have taken medical treatment in Bombay and Udaipur but has not filed single document showing treatment taken by him in any of the hospitals or from doctor nor filed any bills of expences and payment made to any of the doctor. Even the certificate according to Tribunal was of local doctor of Mandsaur and that too as stated supra of two years after the date of accident. Taking into account all these factors awarded a total sum of

Rs. 13,000/- which included a sum of Rs. 2,000/- towards medical expences, a sum of Rs. 6,000/- towards loss due to injury and Rs. 500/- for pain and suffering. This amount to carry interest at the rate of 12% p.a.

4. Heard Mr. V.K. Jain, learned Counsel for the appellant, Mr. S.S. Samvatsar, learned Counsel for respondent Nos. 1 and 3 and Mr. Dandwate, learned Counsel for respondent No. 2.

5. Having heard the arguments of the learned Counsel for the appellant and having perused the impugned award and also the record, in my opinion the appeal deserves to be allowed in part thereby enhancing the compensation amount to some extent.

6. True it is, that claimant did not file any document of expenditure nor that of full medical treatment taken by him, yet in view of what he had actually filed i.e. two Ex-ray Reports and the alleged certificate coupled with his oral statement on oath, one can reasonably conclude that claimant did suffer an injury in his left leg due to fracture which resulted in some partial disability. In my opinion, though there is no clinching or I may say fool-proof medical evidence except the certificate (which Trial Court has disbelieved), the claimant should get a sum of Rs. 25,000/- towards damages for the loss occurred due to injury in place of Rs. 6,000/-. So far as other heads are concerned namely expenditure since the claimant has not filed single bill or voucher and anything to support the claim. It is not possible for this Court to give any enhancement.

7. In consequence, therefore, the increase in the award is by Rs. 19,000/- and hence the total compensation awarded to the claimant is Rs. 13,000/- awarded by the Tribunal + Rs. 19,000/- = Rs. 32,000/. The enhanced sum to carry interest at the same rate which was awarded by the Tribunal.

8. Accordingly appeal is partly allowed and impugned award is partly modified to the extent indicated above.

Cost Rs. 500/- payable to appellant.