
(1994) 12 MP CK 0006
In the Madhya Pradesh High Court
Case No : M.A. No. 199 of 1992

New India Assurance Co. Ltd.

APPELLANT

Vs

Girjabai and Others

RESPONDENT

Date of Decision : 02-12-1994

Acts Referred:

Citation : (1995) ACJ 886

Hon'ble Judges : T.S. Doabia, J

Bench : Single Bench

Advocate : Vinay Kant Sharma and B.K. Dubey, for the Appellant; Madhukar Kulshresth, for the Respondent

Final Decision : Dismissed

Judgement

T.S. Doabia, J.—Girjabai was four years old. She lost her left leg below knee in an accident with a truck. A total amount of Rs. 1,00,000/- was granted by way of compensation. The insurance company is of the view that this is too high a price for a leg of which Girjabai has been permanently deprived.

2. There is no dispute with regard to the factum of an accident having taken place. The dispute is with regard to quantum of compensation. The Motor Accidents Claims Tribunal awarded:

(i) Rs. 40,000/- towards the expenses of an artificial leg.

(ii) Rs. 60,000/- towards loss of future expected income.

It is with regard to second item, a serious challenge has been made. Rs. 250/- per month was fixed as loss of income. This came to be Rs. 3,000/- per year. By using multiplier of 20 the figure of Rs. 60,000/- has been arrived at.

3. I am of the view that no exception can be taken to the amount of compensation. The claimant as she grows would have to adjust with artificial leg from year to year till she attains full height. The artificial leg would have to be changed a number of times. Thus, the figure of Rs. 40,000/- on this count is on

the lower side. The Tribunal has also not taken note of pain and suffering. The expenses incurred by the parents towards medical expenses have not been adverted to.

4. So far as figure of Rs. 60,000/- is concerned, it cannot be said to be on the higher side. At the rate of 12 per cent it would fetch an interest of Rs. 600/- per month. This is too small an amount.

5. Some of the judicial pronouncements in this regard may also be noticed. In *Sitaram v. National Insurance Co. Ltd.* 1992 ACJ 194 (Rajasthan), for amputation of the left foot and fracture in the heel of the right foot, the compensation was assessed at Rs. 2,31,000/-. No doubt, the age of the injured was 40 years but he was operating a camel cart only.

6. In *Sitaram Vs. National Insurance Co. Ltd. and Others*, there was amputation of left leg up to the knee. The injured was a girl of seven years of age. The amount of compensation awarded at Rs. 91,000/- was upheld by the Andhra Pradesh High Court.

7. The Kerala High Court in *Sudha Vs. K. Chenthamarakshan and Others*, fixed compensation in the sum of Rs. 50,000/- when a girl of 8 years suffered an injury due to shortening of leg.

8. In *Union of India v. Pushpa Thakur* 1984 ACJ 401 (P&H), the injured suffered fracture of both legs and right leg was amputated. The Tribunal assessed the compensation at Rs. 50,000/-. This was denied to the claimant on the ground that the truck belonging to armed forces was performing sovereign functions. This view is reversed by the Supreme Court of India in *Pushpa Thakur v. Union of India* 1984 ACJ 559 (SC) and the quantum of compensation was fixed at Rs. 1,00,000/-.

9. This is a case where the injured has lost her left leg. Her chances of settling in life have been put to severe jeopardy. Taking note of the Indian society where there is a prejudice against handicapped girls, her chances of getting a good match and ultimate settlement in life have definitely been diminished. As noticed above, she will have to replace her artificial leg as she grows. Thus, the amount of compensation awarded by the Tribunal cannot be said to be on the higher side. There was something to be said in favour of the claimant. The claimant has not filed any appeal. This appeal is dismissed with costs. Costs assessed at Rs. 1,000/-.