
(2005) 03 GAU CK 0044
In the Gauhati High Court
Case No : WP (C) No. 41 of 2002

Oriental Insurance Co. Ltd. APPELLANT
Vs
Arsad Ali and Others RESPONDENT

Date of Decision : 18-03-2005

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2006) 1 GLR 408

Hon'ble Judges : I.A. Ansari, J

Bench : Single Bench

Advocate : B. Bhattacharjee, for the Appellant; M. Kar Bhowmik, S. Adhikari and B.C. Das, for the Respondent

Final Decision : Dismissed

Judgement

I.A. Ansari, J.—Heard Mr. B Bhattacharjee, learned Counsel for the petitioner, and Mr. MK Bhowmik, learned Counsel appearing on behalf of the respondents.

2. By the impugned award, dated 18.8.2001, passed in TS (MAC) No. 138/98, the learned Member, Motor Accident Claims Tribunal, West Tripura, Agartala has awarded compensation of Rs. 1,82,000 to the claimants, who are parents of deceased Md. Ali.

3. The case of the claimants may, in a nutshell, be stated, thus: Deceased Md. Ali was the son of the claimants. On 4.8.1997, at about 7 A.M, when Md. Ali (since deceased) was returning home leaving his sister at her school, a bus bearing Registration No. TR-01-1331 came at high speed and dashed against Md. Ali causing injuries to him. The said injured succumbed to his injuries at the very place of the accident. Though Md. Ali was only 11 years old, he used to collect/procure used bottles, plastic bags, etc, and sell the same to different merchants at Agartala and earn thereby Rs. 50 per day.

4. The owner of the offending bus as well as the insurer contested the claim, the learned Tribunal found that it was the rash and negligent driving on the part of

the driver of the said vehicle, which had led to the said accident. The learned Tribunal also believed the evidence given, on behalf of the claimants, that their son, Mohd. Ali, used to earn Rs. 50 per day by selling used bottles, etc., Considering these facts, the learned Tribunal awarded Rs. 1,82,000 as compensation.

5. The only ground on which the award has been challenged is the quantum of compensation, the grievance of the insurer being that it was unbelievable that a boy, aged about 11 years, could have been earning Rs. 1,500 per month. Apart from the fact that the learned Tribunal has assigned cogent reasons for coming to the conclusion that the said deceased earned Rs. 1,500 per month, it is important to bear in mind that an insurer cannot, as held in *Sadhana Lodh Vs. National Insurance Company Ltd. and Another*, challenge, by way of a writ petition, an award given by a Tribunal on the mere ground that the compensation awarded is high or excessive, for, an erroneous decision, in the absence of any other ground, is not amenable to the writ jurisdiction under Article 226 and/or 227 of the Constitution of India. That the insurer, such as, the present petitioner, cannot challenge an award made by a Tribunal on the ground of quantum of compensation only cannot be disputed and has not, in fact, been disputed before me.

6. The principal challenge to the award, in the present writ application, is only with regard to the quantum of compensation granted by the learned Tribunal. The award could not be assailed on any other ground. This apart, I have carefully scrutinised the impugned award and found that the learned Tribunal has assigned cogent reasons for granting the compensation of the amount aforementioned.

7. For what have been discussed above, I find no merit in the present writ petition and the same is dismissed with cost of Rs. 2,000.

8. With the above observations and directions, this writ petition shall stand disposed of.

9. Send back the LCR.