
(2016) 09 RAJ CK 0026
In the Rajasthan High Court
Case No : Civil Misc. Appeal No. 159 of 1999

Pokar Ram

APPELLANT

Vs

Rajasthan State Road Transport Corporation, Jaipur

RESPONDENT

Date of Decision : 22-09-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2016) 4 DNJ 1573

Hon'ble Judges : Mr. Arun Bhansali, J.

Bench : Single Bench

Advocate : Mr. M.S. Soni and Mr. Rajesh Panwar, Advocates, for the Appellant/s;
Mr. M.R. Pareek, Advocate, for the Respondent/s

Final Decision : Dismissed

Judgement

Mr. Arun Bhansali, J.—This appeal is directed against the judgment and award dated 9.12.1998 passed by the Motor Accident Claims Tribunal (I), Jodhpur ("the Tribunal"), whereby the Tribunal has awarded a sum of Rs. 12,000/- to the appellant ? injured for the injuries suffered by him along with interest @ 12% p.a. w.e.f. 27.11.1993.

2. The application for compensation was filed inter alia with the averments that injured was travelling in tractor, which was struck by the bus belonging to the respondent-Corporation, it was claimed that the injured suffered injuries, whereby he had two fractures in his femur bone and remained hospitalized from 20.9.1993 to 25.9.1993 and on account of shortening, limping has occurred. Based on the said averments, compensation to the tune of Rs. 3,30,000/- was claimed.

3. In support of the application, the appellant himself was examined and he exhibited two documents i.e. Injury report (Ex.-13) and X-Ray report (Ex.-14).

4. Based on the evidence, the Tribunal came to the conclusion that looking to the fact that injured has suffered fracture in his "right hand", and the fact that no

bills for treatment etc. have been produced awarded lump-sum compensation of Rs. 12,000/- along with interest.

5. It is submitted by learned counsel for the appellant that the Tribunal committed error in awarding meager compensation to the appellant, inasmuch as, he had suffered injuries, remained hospitalized and had a shortening in the leg and therefore, the amount deserves to be enhanced adequately.

6. It was submitted that during the pendency of the appeal, the appellant has filed an application under Order 41, Rule 27 CPC, wherein a medical certificate indicating 30% disability has been produced and therefore, the appellant may be awarded enhanced compensation based on the injury and disablement.

7. Learned counsel for the respondent submitted that based on the material available before the Tribunal, the Tribunal has awarded adequate compensation and same does not call for any interference.

8. It was submitted that no evidence worth the name was produced before the Tribunal and the certificate now sought to be produced cannot be looked into, it was prayed that the appeal be dismissed.

9. I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

10. So far as the application filed by the appellant under Order 41, Rule 27 CPC for producing additional evidence is concerned, it would be observed that the accident took place on 20.9.1993 and the statement of the appellant was recorded on 6.2.1996 i.e. almost after 2½ years, the appellant did not produce any evidence regarding his permanent disablement before the Tribunal. The present application has also been filed on 5.1.2000 i.e. after the appeal was filed on 4.3.1999 along with a medical certificate. The medical certificate, though signed by one Dr. Om Prakash Shah, does not even contain the date on which the appellant was examined; registration number indicated in the certificate also is not followed by the date of the registration, which besides making the said certificate doubtful, even if taking into consideration is of no use having been produced after seven years from the date of accident without any explanation.

11. In view thereof, the application filed by the appellant under Order 41, Rule 27 CPC being without any substance is rejected.

12. Coming to the statement of the appellant, the appellant after indicating that he had suffered the injuries during the course of accident, has made a bald statement that he was entitled to compensation of Rs. 3,30,000/-. No evidence was led by him even orally indicating the period of his hospitalization, no medical bills etc. were produced by him. The Injury report and X-Ray report only indicate one fracture in femur bone, from which the Tribunal has awarded Rs. 12,000/- to the appellant, which does not call for any interference.

13. In view of the above discussion, there is no substance in the appeal, the

same is, therefore, dismissed.