
(1993) 06 MP CK 0003
In the Madhya Pradesh High Court

Pradeep Kumar

APPELLANT

Vs

Mangilal and Another

RESPONDENT

Date of Decision : 23-06-1993

Acts Referred:

Citation : (1994) 1 ACC 37

Hon'ble Judges : V.S. Kokje, J;R.D. Shukla, J

Bench : Division Bench

Judgement

R.D. Shukla, J.—This is claimant's appeal for enhancement of the compensation awarded to him vide Award dated 28th January, 1982, passed by IIIrd Additional Motor Accidents Claims Tribunal, Indore, in Claim case No. 81/79.

2. There is no dispute as to driving of the Car by respondent No. 2 at the time of accident and as to ownership of respondent No. 1, who was the last transferee of the vehicle and obtained possession of Motor Car on supurdginama from criminal Court.

3. The case of the claimant is that he was going on Scooter "Lambretta" from his house towards Labriya Bheru, where respondent No. 2, who was driving Car No. MPJ 231 in an excessive speed dashed against the Scooter from the wrong side. The claimant sustained injuries. He was medically examined, admitted in M.Y. Hospital, sustained fracture of shaft of right femur and fracture of right pattela bone. He was treated. Intra-medial nailing was done on femur bone and pattelactomy was also performed. There was shortening of leg by 1.7" and he has, therefore, developed partial permanent disability, which has adversely affected his earning capacity. He was under severe pain and had to incur expenses for medical treatment. He had claimed Rs. 3,10,000/- towards damages, including general damages, special damages and loss of earning.

Learned Tribunal has awarded Rs. 10,000/- general damages for the permanent disability, Rs. 5,000/- for pain and suffering and Rs. 1,000/- towards medical expenses. Thus, an award of Rs. 16,000/- has been granted against the

respondent Nos. 1 & 2 jointly and severely. The disability has been assessed to 20% with an income of Rs. 450/- p.m. This appeal is against the above award for enhancement as referred above.

4. The contention of the learned Counsel for the appellant is that the learned Tribunal has assessed the general damages on the lower side without applying any multiplier. The claimant is a youngman and he will have to suffer the loss for the whole of life and as such the same deserves to be enhanced. There is no dispute as to the assessment of the income as Rs. 450/- p.m. and the assessment of disability to the tune of 20%.

5. Admittedly, the claimant was aged about 30 years, at the time of accident. Looking to the present average life of an Indian citizen it can easily be assumed that the claimant would be working to the age of nearly 60 years. Thus he will have to suffer the loss for another 25 to 30 years and in such a situation the multiplier of 20 ought to have been applied. Learned Tribunal failed to apply the multiplier and therefore the award deserves to be modified. Taking the loss of income to the tune of 20% the loss would be about Rs. 1050/- per year. Thus, the loss would come to $1050 \times 20 = \text{Rs. } 21,000/-$. Hence, the award under that heading deserves to be modified to that extent. The damages awarded towards pain and suffering and for medical treatment appear to be proper and call for no interference.

6. As a result, the appeal partly succeeds and the award is modified as follows: The claimant is entitled to damages of Rs. 21,000/- + Rs. 5,000/- + Rs. 1,000/- = Rs. 27,000/- in all. The claimant is further entitled to interest of 12% from the date of application till payment of the same. However, the amount deposited earlier shall carry no interest. The claimant is further entitled to cost of his appeal. The respondent Nos. 1 & 2 jointly and severely shall be liable to make payments towards damages and interest and cost as referred above. The Counsel fee Rs. 400/-, if certified.