

(2000) 09 MP CK 0069
In the Madhya Pradesh High Court

Rameshwar

APPELLANT

Vs

Gukul and Others

RESPONDENT

Date of Decision : 14-09-2000

Acts Referred:

Citation : (2001) 1 ACC 566

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

Bench : Single Bench

Judgement

A.M. Sapre, J.—Claimant is dissatisfied with what is awarded to him by the impugned award. He wants more and hence he is in appeal for enhancement. In all, the learned Member of Tribunal awarded him a total sum of Rs. 24,000/- for the injuries that the claimant has suffered in an accident. The impugned award is dated 28.7.1997, passed by learned IInd M.A.C.T., Dewas, in Claim Case No. 98/97.

2. On 26.10.1994, claimant while going on motorcycle with his brother-in-law, Babulal, was dashed with the Bus bearing No. CPU 1111 resulting in death of Babulal and sustaining of injuries by the claimant. The offending bus was owned by respondent No. 2 and was being driven by respondent No. 1. It was insured with respondent No. 3. This resulted in filing of claim by the claimant claiming compensation for the injuries. The respondent Nos. 1 and 2 remained ex-party whereas respondent No. 3 alone contested the claim.

3. By impugned award, the learned Tribunal allowed the claim in part. It allowed a sum of Rs. 10,000/- towards medical expenses, Rs. 8,000/- towards loss resulted due to injuries, and Rs. 6,000/- towards loss of earning. It was held that accident was the outcome of negligent driving of offending vehicle bus and hence all the three non-applicants (respondents) are jointly and severally liable to pay for the award rendered. And hence this appeal for enhancement.

4. Heard Mr. Pankaj Bagadia, learned Counsel for the appellant. None for the respondents inspite of SPC issued.

5. Having heard the learned Counsel for the appellant, in my opinion a case for enhancement to some extent is made out. Since there is no cross-appeal or cross-objection by any of the respondents and hence other issues such as nature of accident, negligence of driver of bus and liability of Insurance Company have become final and are binding on the respondents.

6. In my opinion, the award of Tribunal under medical head for Rs. 10,000/- appears to be on low side and it should have been for Rs. 15,000/-. It is impossible for the claimant who is receiving medical treatment to file bills of each and every item. It is simply impracticable. The fact that claimant received injuries, that he received extensive medical treatment, and that he actually filed bills for Rs. 10,000/- as held by Tribunal itself shows the genuineness of his claim towards medical head. In my opinion, as held above, I am inclined to award a total sum of Rs. 15,000/- towards medical expenses thereby enhancing the award by Rs. 5,000/- under this head.

7. As regards the award of compensation towards injury and the loss, in my opinion, the Tribunal should have awarded a total sum of Rs. 25,000/- because the doctor has certified the disability to the extent of 26%. It appears that though claimant led evidence and examined the doctor but the certificate of disability though filed was not exhibited. Nevertheless, looking to the nature of injury, its impact and the medical treatment received, and the fact that claimant was engaged in business of milk, he should be awarded a sum of Rs. 25,000/- in place of Rs. 8,000/-. Accordingly, under this head, an enhancement of Rs. 17,000/- is awarded.

8. Accordingly, the appeal is allowed in part, impugned award is modified and is enhanced by Rs. 17,000/- + Rs. 5,000/-: Rs. 22,000/-. Accordingly the claimant is held entitle for a total compensation of Rs. 25,000/- + Rs. 15,000/- + Rs. 6,000/-: Rs. 46,000/-. This awarded sum will carry interest at the same rate as was awarded by the Tribunal. No cost.

No cost.