(2003) 05 MP CK 0050

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 628/99

Satish APPELLANT

Vs

Latif Khan and Others RESPONDENT

Date of Decision : 05-05-2003

Acts Referred:

Motor Vehicles Act, 1988 — Section 149, 168, 171, 173, 3

Citation : (2004) 1 ACC 725 : (2003) 3 MPHT 375

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

Bench : Single Bench

Advocate : Vinay Vijayvargiya, for the Appellant; Manish Manana and P.K. Gupta, for the Respondent

Final Decision : Partly Allowed

Judgement

A.M. Sapre, J.—This is an appeal by the claimant challenging the award dated 26-3-1999, passed by learned IInd Additional Accident Claims Tribunal, Mandsaur, in Claim Case No. 132 of 1998.

2. One of the ground on which the impugned award was challenged by the appellant is that Insurance Company was wrongly exonerated by the learned Claims Tribunal on the ground that the Driver did not have a valid and legal licences to ply the vehicle in question. It is with this finding, the Insurance Company was exonerated by the learned Claims Tribunal.

3. The question whether the Insurance Company can be exonerated if the driver of the offending vehicle did not have valid and legal licence to indemnify the liability of third party has since been settled by the decision of the Supreme Court in the case United India Insurance Company v. Lehru and Ors., reported in JT 2003 (2) SC 595. Their Lordships while confirming the earlier view of the Supreme Court in the case of New India Assurance Company v. Kamta and Ors., JT 2001 (4) SC 235 and JT 1996 (5) SC 728, held that even though driver of the offending vehicle had no valid driving licence on the date of accident, yet

Insurance Company has to indemnify the liability qua third party. The issue is no longer remain res integra by the authoritative pronouncement of the Supreme Court in these three cases.

4. In this case the driver of the vehicle did not have a licence, therefore, the learned Claims Tribunal treating this to be a case of breach of policy exonerated the Insurance Company and fastened the liability only against the Driver and owner of the offending vehicle. This view has not been held to be a correct view by the Supreme Court in the case of United India Insurance Company (supra). Accordingly, the finding of the Tribunal on this issue is not liable to be sustained. It is accordingly set aside.

5. Coming to the issue of compensation awarded to the claimant (appellant herein) for the injuries suffered, the submission of learned Counsel for the appellant was that it was on lower side. It was contended that in all a sum of Rs. 14,000/- was awarded to the claimant for the injury which he has suffered in an accident in his left hand.

6. In my opinion, the submission has some force. Even according to doctor who was examined by the claimant, out of five injuries suffered by the claimant, on injury which the claimant had suffered in his left hand was of a serious nature and left 14% disability in the use of the hand. The claimant is aged 22 years and has a full life ahead of him. The partial disability of 14% in the left hand would definitely reduce his efficiency and affect his some future prospect. In my view, the Tribunal thus, having noticed this partial disability should have awarded reasonable compensation for the loss occurred to the claimant. In my view a sum of Rs. 25,000/- under this head over and above Rs. 14,000/- would meet ends of justice.

7. In all therefore, the claimant is held entitled to claim a total sum of Rs. 14,000/- + Rs. 25,000/- = Rs. 39,000/-.

8. As a consequence of aforesaid discussion, the appeal succeeds and is allowed in part. The impugned award is modified to the extent indicated. It is passed jointly and severally against all the non-applicants which also include the Insurance Company alongwith driver and owner. All other findings and directions will remain as it is except those which are interfered with by this Court in aforementioned paras. The enhanced compensation will carry interest at the same rate as has been awarded by the Tribunal from the same date determined by the Tribunal.

9. No costs.

