
(1987) 12 AHC CK 0055
In the Allahabad High Court

Union of India (UOI)

APPELLANT

Vs

Chandra Pal

RESPONDENT

Date of Decision : 24-12-1987

Acts Referred:

Citation : (1988) 2 ACC 82 : (1989) ACJ 389

Hon'ble Judges : N.N. Mithal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

N.N. Mithal, J.—This is an appeal by the Union of India against the award of the Motor Accident Claims Tribunal awarding a compensation of Rs. 36,700/- to the respondent. There is a cross-objection by the respondent for the enhancement of compensation. The facts in brief are that on 15-9-1974, the claimant met with an accident at about 9.05 a.m. when a Military truck of the Kumaun Regimental Centre, Ranikhet coming from the Globe Cinema side ran him over injuring his leg seriously. The petitioner was a sweeper drawing a sum of Rs. 150/- per month from the Cantonment Board, Ranikhet. The claimant was immediately taken to the Military Hospital, Ranikhet from where he was shifted to the Civil Hospital at Ranikhet. Later on he had to be removed to B.D. Pandey Hospital at Nainital where he remained under treatment for about three months. His left leg had to be amputated from the root in order to save his life. The claimant thereafter came back to Ranikhet and remained under the treatment of Dr. D.S. Bangari from 19-11-1974 to 13-7-1976.

2. The defence was that the claim petition was incompetent as the claimant was a minor on the date of the petition; that the petition was beyond time; that the amount of compensation claimed is highly exaggerated and that he was entitled to a sum of Rs. 3000/- to Rs. 4000/- only by way of compensation. However, in the written statement, the factum of accident and that the claimant had received injuries was not disputed.

3. The Claims Tribunal framed the following four issues:

(1) Whether the claimant received injuries by an accident with the truck No. VD 44752 belonging to the KRC Ranikhet on 15-9-1974 near S.D.M. Court, Ranikhet on the road leading to the Globe Cinema due to the rash and negligent driving on the part of its driver L/NK. Khim Singh.

(2) Whether the claimant was minor at the time of the accident? If so its effect?

(3) Whether the compensation claimed by the claimant is excessive and exorbitant?

(4) Whether the claim is barred by time?

4 On Issue No. 1, the Tribunal recorded a finding that the accident occurred on account of the rash and negligent driving by the driver. I have gone through the record and the evidence adduced by the parties. It is admitted to the driver Khim Singh that the brakes had failed and the vehicle had not been examined about its road worthiness. is, therefore, clear that there was obvious negligence on the part of the driver to take out the vehicle which had not been properly checked about its road worthiness. Nothing could be shown by the learned Counsel from the record so that the court may take a different view than what has been taken by the Claims Tribunal. It is, therefore, held that the accident was caused on account of rash and negligent driving by the driver of the vehicle and the appellant is liable for the same.

5. On the question of maintainability, the learned Counsel for the appellant has submitted that according to the petitioner himself, he was only 17 years of age at the time when the accident took place. The petition had been filed after about two years of the accident. In the meantime the petitioner had become major and, therefore, the claim petition was rightly filed by him under his own signatures.

6. It was then contended that the petition was barred by time as it was filed beyond 6 month from the date of the accident. However, there was sufficient evidence on the record to establish that the claimant had remained completely hospitalised during the period and was not in a position to move the petition within 6 months. The delay has been sufficiently explained and it is held that the petition was not barred by limitation as contended.

7. Lastly it is contended that the amount of Rs. 36700/- which has been awarded is much too high and the claimant was not entitled for the same. The learned counsel has submitted that the court has taken the life span as 30 years which is not compatible with the facts of the case inasmuch as the claimant was only 17 years of age at the time of the accident and the normal life span is upto 60 years. In that view of the matter, the very basis of awarding of compensation for 30 years was not proper. It appears to me that by 30 years life span the Tribunal really meant 30 years of earning life of the claimant. Normally a person works upto the age of 55 years and, therefore, 30 years period for calculating the

amount of compensation was proper.

8. Admittedly the claimant was earning Rs. 150/- p.m. as a sweeper employed by the Cantonment Board, Ranikhet. The total amount he would have earned during the period of 30 years comes to Rs. 54,000/- and after making a deduction on account of lump sum nature of payment, after necessary deduction the amount of Rs. 36,000/- has been rightly awarded by the Claims Tribunal. In addition to the above, the Claims Tribunal has awarded Rs. 700/- towards medical expenses and treatment which appears to be very reasonable amount in view of the nature of the injuries suffered by the claimant.

9. The learned Counsel for the respondent submitted that the amount of compensation should be enhanced because the claimant was likely to serve upto the age of 58 or 60 years and the amount of compensation should have been calculated for a period of 42 years of working life. I cannot agree with the learned Counsel for the respondent for the simple reason that the claimant was only a temporary employee of the Cantonment Board and it is not even certain that he would have been given a permanent employment by the Board. Looking to the uncertainty of employment, a period of 30 years adopted by the Claims Tribunal as the earning life of the claimant was appropriate. Looking to all the facts and circumstances of the case, I find that the amount awarded is just and proper and it does not require any enhancement.

10. In view of the above, the appeal as well as the cross-objection fail and are accordingly dismissed. There will be no order as to costs.