

(2003) 04 AHC CK 0224
In the Allahabad High Court
Case No : F.A.F.O. No. 951 of 2003

U.P. State Road Transport Corporation	APPELLANT
Vs	
Rajeev Kumar Chaturvedi and Another	RESPONDENT

Date of Decision : 21-04-2003

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 168, 173

Citation : (2003) 5 AWC 4391

Hon'ble Judges : S.P. Srivastava, J;K.N. Ojha, J

Bench : Division Bench

Advocate : M.M. Sahai, for the Appellant;

Final Decision : Dismissed

Judgement

S.P. Srivastava, J.—Heard the learned Counsel for the Owner-Appellant.

2. The Appellant has filed the present appeal u/s 173 of the Motor Vehicles Act feeling aggrieved by the award of an amount of Rs. 1,50,000 determined as just compensation to which the injured claimant was found entitled to on account of his having suffered grievous injuries resulting in partial permanent disablement.

3. The case of the injured-claimant was that in the accident, he had suffered a fracture in scalp and the fingers of left hand and had lost his eye sight so far as the left eye was concerned which after prolonged treatment could be restored only to a limited extent. The partial permanent disablement was in regard to the eye sight of his left eye. The injured had also claimed that he had already spent an amount of Rs. 1,00,000 on the medical treatment.

4. The Tribunal taking into consideration the evidence and the material brought on record and taking into account the duration of the treatment and expenditure already incurred on that count and further the expenditure incurred in travelling to Delhi-Lucknow-Fatehgarh, had determined the aforesaid amount of compensation.

5. The learned Counsel for the Appellant has urged that the amount of compensation determined is highly excessive. So far as the aforesaid aspect is concerned, it may be observed that no award of money can possibly compensate a man and renew a shattered human frame. The general principle governing the assessment of damages in case of bodily injuries to the effect that the award to the injured party should be such a sum of money as will put him in the same position as he would have been in if he had not sustained injuries, cannot be said to be attracted, where the assessment of damages has to be made for the pain and suffering undergone and for the impairment which results from the injuries and in such cases, while fixing the damages, the Judge can do no more than endeavour to arrive at a fair estimate taking into account all the relevant considerations.

6. It should not be lost sight of that a bodily injury is to be treated as a deprivation which entitles a claimant to damages and the amount of damages has to vary according to the gravity of the injury. Further, the deprivation by injuries may bring with it different consequences, such as loss of earning or earning capacity, expenses to pay others for what otherwise he or she would do for himself/herself and diminution in full pleasure of living. While considering the deprivation, the Court should have regard to the gravity and degree of deprivation and the duration of the deprivation and further the degree of awareness of the deprivation. In awarding damages in personal injury cases, the compensation should be substantial in nature and it should not be merely token damages.

7. In cases of disablement, by virtue of any loss of limb or any permanent defect/disability, the compensation goes to injured persons. Therefore, compensation awarded may be higher than even cases of death where the compensation goes to the dependents or to the estate of the deceased.

8. It has next been urged that the Tribunal has erroneously considered the evidence led in two other claim cases for coming to the conclusion that the accident, which had resulted in the injuries, had been caused by the offending motor vehicle. So far as this aspect is concerned, it may be noticed that apart from other evidence and materials brought on record, the Tribunal had taken into consideration the evidence led in Petition No. 186 of 1995, *Ram Sanehi Mishra v. U.P. State Road Transport Corporation* and Petition No. 154 of 1994, *K.C. Ram v. U.P. State Road Transport Corporation and Ors.*, decided by the Motor Accident Claims Tribunal, Etah. It is, however, not disputed by the learned Counsel for the Appellant that the Appellant was a party to the aforesaid proceeding which had been initiated u/s 166 of the Motor Vehicles Act by the persons who had suffered injuries in the same accident in which the present contesting Respondent-claimant to have suffered the injuries.

9. In the present case, the Appellant had examined the driver of the offending bus as D.W. 1. The claimant besides examining himself as a witness had led voluminous documentary evidence. The Tribunal after carefully considering the

evidence and material brought on the record and the relevant circumstances, had come to a definite conclusion that the driver of the offending bus was driving the bus in a rash and negligent manner. It was also observed that the driver of the bus had left his side and coming over to the side of the car, had caused the accident. In the aforesaid connection, the Tribunal has also referred to the finding returned against the Appellant in other two claim cases decided by the Motor Accident Claims Tribunal, Etah.

10. The finding returned by the Motor Accident Claims Tribunal, after considering the oral evidence led by the parties and also the other evidence, cannot be taken to be suffering from any such legal infirmity which may justify any interference therein.

11. Considering the totality of the facts and circumstances as brought on record, the amount of compensation awarded does not appear to be unjust.

12. This appeal, consequently, fails and is dismissed.

13. As prayed, the amount of Rs. 25,000 deposited in this Court by the insurer-Appellant u/s 173 of the Motor Vehicles Act be remitted to the Motor Accident Claims Tribunal concerned within one month from the date an application is filed by the Appellant for the purpose so that it may be disbursed to the claimant.