

Digamber Gaikwad Vs. Mohd. Akeel

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Court : Madhya Pradesh

Decided On : Feb-04-2013

Appellant : Digamber Gaikwad

Respondent : Mohd. Akeel

Judgement :

MA No.3722/06 1 MA No.3722/2006 04/02/2013 Appellant by Mr. Kapil Patwardhan, Advocate. Mr. Jayant Neekhara, Advocate who is present in Court and is one of the panel lawyer for Insurance Company is requested to make appearance on behalf of Insurance Company-respondent No.2. Counsel for the appellant is directed to supply copy of memo of appeal and impugned award to the counsel for Insurance Company during course of the day. Heard on IA 10514/2006, which is application for condonation of delay. As per the Office the delay is of 5 years and 211 days. From perusal of the record it appears that the award was passed on 12.5.2006 and the appeal was filed on 16.10.2006. Thus, the delay was of 66 days. There is delay in filing certified copy of the award but limitation has to be computed from the date when the appeal is filed and not from the date when the certified copy of the award is filed. Sufficient ground is made out in the application for condoning the delay. Application is allowed. Delay stands condoned. With the consent of the parties matter heard finally.

ORDER

This is an appeal filed by the claimant under Section 173 of the Motor Vehicles Act against an award dated 12.5.2006 passed by 2nd Additional Motor Accident Claims Tribunal, Bhopal in MCC No.413/2005. By the impugned award, the Claims MA No.3722/06 2 Tribunal has awarded a total sum of Rs.24,000/- with interest to the claimant by way of compensation for the injury which he sustained in an accident. According to claimant i.e. appellant herein, the compensation awarded is on lower side and hence, need to be enhanced. It is for the enhancement in the compensation awarded by the Tribunal, the claimant has filed this appeal. So the question that arises for consideration is whether any case for enhancement in compensation awarded by the Tribunal on facts/evidence adduced is made out in the compensation awarded and if so to what extent ?.

2. It is not necessary to narrate the entire facts in detail, such as how the accident occurred, who was negligent in driving the offending vehicle, who is liable for paying compensation etc. It is for the reason that firstly all these findings are recorded in favour of claimant by the Tribunal. Secondly, none of these findings though recorded in claimant's favour are under challenge at the instance of any of the respondents such as owner/driver or insurance company either by way of cross appeal or cross objection. In this view of the matter, there is no justification to burden the judgment by detailing facts on all these issues.

3. Learned counsel for the appellant submits that in a motor accident which took place on 1.4.2005 the appellant sustained grievous injuries. It is submitted that learned Tribunal has awarded a sum of Rs.24,000/- breakup of which is as under : Rs.10,000=00 Towards mental and physical sufferings. Rs.11,000=00 Towards treatment Rs. 2,000=00 Towards loss of income MA No.3722/06 3 Rs. 1,000=00 Towards diet and transportation 4. Learned counsel for the appellant submits that looking to the injuries sustained by the appellant, amount awarded by the learned tribunal is on lower side which deserves to be enhanced. It is submitted that the appeal be allowed and the amount be enhanced.

5. Learned counsel for Insurance Company submits that looking to the injuries sustained by the appellant the amount awarded by the learned tribunal is just and proper and no further enhancement can be made. It is submitted that the appeal

be dismissed.

6. I have gone through the evidence adduced by the claimant on the issue of injuries sustained by appellant. After taking into consideration all the evidence on record it appears that the compensation awarded is on lower side. Thus, the claimant is held entitled for a total sum of Rs.44,000/- by way of compensation for the injuries sustained by appellant in the accident which shall carry interest @8% p.a. from the date of application.

7. With the aforesaid modification the appeal stands disposed of. No order as to costs. (N.K. MODY) Judge S/

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