

Shiv Gopal Vishwakarma Vs. Devendra Kumar

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Court : Madhya Pradesh

Decided On : Jul-31-2012

Appellant : Shiv Gopal Vishwakarma

Respondent : Devendra Kumar

Judgement :

HIGH COURT OF MADHYA PRADESH : JABALPUR SINGLE BENCH : JUSTICE J.K. MAHESHWARI Misc. Appeal No.68 of 2008 Shiv Gopal Vishwakarma versus Devendra Kumar & others For Appellant : Shri Ranjeet Singh, Advocate For Respondent : Shri Rajkumar Verma, Advocate no.3 O R D E R 31.07.2012 Assailing the award dated 10.10.2007, passed by the learned Member Motor Accident Claims Tribunal, Raisen, in Claim Case No.17/2007 on the point of inadequacy of the compensation, the injured appellant has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 for an accident took place on 15.05.2006 in which he sustained severe injuries.

2. The appellant had filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation to the tune of Rs.5,75,000/ for the injuries sustained by him. The reply to the claim petition was filed and after recording the evidence, the Tribunal recorded the finding that it is a case of grievous injury, however, awarded a sum of Rs.77,300/ by passing the impugned award. 3.

As the incident occurred, negligence of driver of driving the offending vehicle, the issue of liability jointly and severally to pay compensation have been decided recording the findings in favour of the appellant by the Tribunal.

None of those findings have been assailed at the instance of the respondents i.e. owner, driver or insurance company by filing the cross appeal or the crossobjection, however it is No. necessary to narrate the entire facts in detail to burden the judgment on the said issues. It is only the inadequacy of the compensation which has been assailed, however the arguments in detail have been considered in succeeding paragraphs. 4.

Shri Ranjeet Singh, learned counsel representing the appellant contends that the injuries sustained by the appellant are grievous in nature, however awarding compensation merely for simple injury by the Claims Tribunal is not in accordance to the material available on record.

It is further submitted that looking to the nature of injuries sustained, hospitalization, medical bills, loss of earning during treatment and future loss of earning, the compensation so awarded by the Tribunal is inadequate and liable to be enhanced reasonably. 5.

On the other hand Shri Rajkumar Verma, learned counsel representing the respondentInsurance Company contends in support of the findings of the Claims Tribunal and submitted that the compensation as awarded by the impugned award appears to be just and reasonable, however, interference by this Court for enhancement of the compensation is not warranted.

6. After having heard learned counsel appearing for the parties and on perusal of the pleadings and the evidence so adduced, in the opinion of this Court, it is a case of grievous injury, however the finding recorded by the Tribunal to the said extent appears to be correct but looking to the treatment, medical expenses and other heads, in the opinion of this Court, the amount so awarded by the Tribunal is liable to be enhanced by Rs.40,000/ in lump sum thereby making the total compensation Rs.1,17,300/, which shall be payable along with the interest from the date of filing of the claim petition.

7. In view of the forgoing discussions, the appeal succeeds and is hereby allowed in part. The appellant is held entitled to receive the enhanced amount of Rs.40,000/ in addition to the amount of compensation already awarded by the Claims Tribunal. The enhanced amount shall carry interest @ 7.5% per annum from the date of filing of claim petition till its realization. In the facts of the case, parties are directed to bear their own costs. (J.K.Maheshwari) J U D G E t a j.

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