

State of Bihar Vs. Dilip Kumar and anr.

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Court : Patna

Decided On : Nov-08-1996

Judge : P.K. Deb. J.

Appellant : State of Bihar

Respondent : Dilip Kumar and anr.

Prior history : P.K. Deb, J. 1. Heard learned Counsel for the parties. This appeal has been preferred by the above named appellant against the judgment and award dated 18.12.1993 passed by the Judicial Commissioner, Ranchi,-cum-Motor Vehicle Accident Claims Tribunal,' Ranchi, in Compensation Case No. 88 of 1991. 2. The respondent-claimant (Dilip Kumar) filed the aforementioned case for compensation of Rs. 2,50,000/- with interest for the accidental multiple injuries caused on his person on 13.3.1991. It has f

Judgement :

P.K. Deb, J.

1. Heard learned Counsel for the parties.

This appeal has been preferred by the above named appellant against the judgment and award dated 18.12.1993 passed by the Judicial Commissioner, Ranchi,-cum-Motor Vehicle Accident Claims Tribunal,' Ranchi, in Compensation Case No. 88 of 1991.

2. The respondent-claimant (Dilip Kumar) filed the aforementioned case for compensation of Rs. 2,50,000/- with interest for the accidental multiple injuries caused on his person on 13.3.1991. It has further been submitted that because of such accident, he has become permanently disabled and he is not in a position to discharge his duty.

3. The claimant-respondent No. 1 is stated to be a Mistry. The accident occurred on 13.3.1991 when he was going on his bicycle at about 9 A.M. and when he reached near Kishoreganj Chowk, he noticed that a truck bearing No. DLA 9809 was coming in high speed from the opposite direction and dashed against him, as a result whereof, the front wheel of the truck has come on the right leg of the injured whereby he sustained multiple injuries. In injured condition, he was taken to Dr. A.K. Agrawal and then he was hospitalised at Sewa Sadan, Ranchi and thereupon he was shifted to R.M.C.H. Ranchi and he remained there for three months. In course of treatment he was operated. According to him, he spent about Rs. 32,000/- towards treatment and after treatment, he could not be completely cured and the multiple injuries and the fracture caused on the right leg made him disabled permanently and due to this accident, the claimant is unable to discharge his duty freely.

4. After framing of several issues, the learned Tribunal after scrutinising the evidence of the witnesses found that the accident occurred due to rash and negligent driving of the vehicle i.e., the truck which was owned by the appellant at the relevant time.

5. In assessing the quantum, the learned Court below found that the cash-memos submitted regarding the treatment made a total of Rs. 6,500/- and after considering all aspect of the matter, the compensation was awarded to Rs. 50,000/- out of which Rs. 12,000/- on interim compensation was deducted. The interest was levied @ 12% per annum.

6. For and on behalf of the appellant, it has been submitted that although the vehicle belonged to the appellant, but the same was being driven by a person who had already retired from the service and was not authorised to drive the vehicle, and as such the appellant may not be asked to pay compensation for vicarious

liability. When the vehicle was allowed to be driven by the unauthorised person of the appellant, the vicarious liability remained with him. There is no force in such submission. The second submission of the appellant is that the amount assessed by the Tribunal is on the higher side and got no basis and was imposed on lumpsum basis against the appellant.

7. The respondent-claimant had claimed that he had already become permanently disabled because of his injuries caused by the accident on his person and the same was found to be correct when interim compensation was allowed in favour of the claimant-respondent. Although the claimant could not submit the proper accounts of expenditure for his treatment, but when the claimant was hospitalised for three months and was operated upon, the expenditure can well be inferred.

8. In view of the above position, I do not find that the amount of Rs. 50,000/- has been exorbitant in determining the quantum of compensation. In this score also, I do not find any force in this appeal.

9. It is found that the claimant-respondent has already been paid interim compensation of Rs. 12,000/- and Rs. 25,000/- has also been deposited while filing this appeal statutorily under Section 173 of the Motor Vehicles Act. In view of the above, the balance amount should be paid within three months next with interest positively taking into consideration of the payment of interim compensation and the deposits made under Section 173 of the Act while making payment of the balance amount with interest in favour of the claimant-respondent.

10. In the result, the appeal has got no force and hence the same is rejected, but in the circumstances of the case, no order as to costs.