

Virendra Vs. Mahendra and ors.

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Court : Madhya Pradesh

Decided On : Feb-04-2005

Reported in : II(2005)ACC142; 2005(1)MPHT478

Judge : A.K. Awasthy, J.

Acts : [Motor Vehicles Act, 1988](#) - Sections 142, 168, 171 and 173

Appeal No. : Misc. Appeal No. 2432/2004

Appellant : Virendra

Respondent : Mahendra and ors.

Advocate for Def. : None

Advocate for Pet/Ap. : Vijay Singh Chauhan, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

A.K. Awasthy, J.

1. Appellant/claimant has filed the appeal under Section 173 of the Motor Vehicle Act for the increase of the award dated 16-7-2004 in Claim Case No. 143/2003 passed by learned Additional Member MACT, Dhar where by the amount of Rs.

57,000/- carrying the interest @ 8% per annum was provided to the claimant.

2. The case of the claimant is that on 2-11-2004 at about 8.30 A.M. when the claimant was going on his Kinetic Honda Scooter the Truck No. MP-09 KB/631 driven rashly and negligently by respondent No. 2 hit the Scooter and in the accident the claimant fell down and he has received the injury on his face and his three teeth were broken. That the report was lodged in the Police Station, Dhamnod. The charge-sheet was filed against the respondent No. 1 before the Judicial Magistrate First Class, Dharampuri. That on account of the loss of the teeth the claimant was incapable of taking the food and he has received the permanent disability. That the claimant has incurred the expenses of Rs. 95,000/- in his medical treatment and in total he is entitled for the amount of Rs. 5,50,000/- from the respondent No. 2 and also owner of the vehicle and the insurer respondent Nos. 1 and 3 respectively.

3. The respondent Nos. 1 and 2 proceeded exparte and the case of the respondent No. 3 is that at the time of the accident the driver of the Truck was not having the license and that the accident has taken place on account of the negligence of the claimant and as such, the Insurance Company is not liable to pay the amount.

4. The learned Tribunal after framing the issues and recording the evidence has held that the driver of the truck was negligent and as such, the claimant has received the injuries but he has not received the permanent disability and as such, the amount of Rs. 57,000/- was awarded with the Interest.

5. The case of the claimant is for the enhancement of the award on the ground that in view of the huge expenditure in the medical treatment by the claimant, the learned Tribunal has erred in passing the award at a lower side and as such, the amount of compensation be enhanced.

6. From the statement of Virendra (P.W. 1) and the MLC Report (Ex. P-10) it is clear that the claimant has received the minor abrasions and his four teeth were broken. The claimant has not examined the treating Doctor nor has he produced the prescription of the Doctor or the purchase of the medicines. The photograph of

the claimant is produced before the Court from which it does not appear that there was any disfiguration of his face. The Doctor has not opined that there was a permanent disfiguration of the face. However, on account of the loss of few teeth it can not be presumed that there was a disfiguration of the face of the claimant. The claimant has remained in the Hospital for only 4 days and the claimant has not produced any evidence to show that on account of his injury, he was unable to work for a month. Looking to the nature of the injuries the total amount of Rs. 57,000/- with interest of 8% per annum was rightly awarded to the claimant.

7. The petition is without merit and it fails and is, hereby, dismissed.

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