

Babuliya Alias Babulal Vs. Mukeshkumar

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Court : Madhya Pradesh

Decided On : Feb-23-1998

Reported in : 2000ACJ646; AIR1998MP247

Judge : J.G. Chitre, J.

Acts : [Motor Vehicles Act, 1939](#) - Sections 95

Appeal No. : M.A. No. 125/96

Appellant : Babuliya Alias Babulal

Respondent : Mukeshkumar

Advocate for Def. : S.K. Jain and ;Altaf Khan, Advs.

Advocate for Pet/Ap. : Y.I. Mehta and ;H.Y. Mehta, Advs.

Disposition : Appeal allowed

Judgement :

J.G. Chitre, J.

1. The short point which is invoked is whether the appellant is entitled to get the interim award in view of the provisions of Section 95 of the Motor Vehicles Act 1939 (hereinafter referred to as 'the Act' for convenience). Shri Mehta submitted that the respondent No. 1 was driving the vehicle in question which was owned by

respondent No. 2 which was insured with respondent No. 3. He further submitted that the injury has been sustained by the appellant in the said accident and there is fracture to the leg of the appellant. Shri Mehta submitted that the Tribunal has rejected the prayer of the appellant for interim award pointing out that the certificate which has been filed by the appellant after one year is from a private doctor. He submitted that the view taken by the Tribunal is erroneous because that is not vitally decisive at this stage.

2. Shri S.K. Jain submitted that the said certificate is taken from one and not from the doctor who medically treated the appellant. Shri Jain further submitted that the appellant was in the hospital only for two days and therefore, the injury sustained by him cannot be treated to be permanent disability. He pointed out that it has come in the order which is being challenged, that the injury sustained was simple one. He further pointed out that the x-ray report was not produced.

3. It is pertinent to note that a poor person cannot afford to be in the hospital for longer time, that does not by itself deprive him of the benefit of the provisions of the Motor Vehicles Act. In number of cases the injuries may be detected later on and keeping in view the illiteracy prevalent in India in villages, it may not be possible for such victim to produce the medical certificate of the doctor who treated him initially at the stage when his application for interim relief is to be considered. The intention behind legislating this provision of the Act is to give a solace to victim who sustained injuries in the accident. It is for enabling him to disburse the expenses incurred on medical treatment. What is to be seen is that there is nexus between the vehicle involved, accident occurred and the injury sustained by the victim. If the injuries are serious and if there is fracture, while considering the prayer for interim relief made by such victim in view of provisions of Section 95 of the Act, the Court need not go to further details. After all the amount will be Rs. 12,500/- only; that amount may be adjusted at the time of final decision of the claim petition.

4. Thus, in view of discussions above, the view taken by the tribunal is erroneous and that needs to be corrected by setting aside the order which is under challenge.

5. In the light of above, the order of the tribunal is set aside and it is directed that respondent No. 3; Insurance Company to pay Rs. 12,500/- to the appellant by crossed cheque. The claim petition be decided as early as possible. While taking the said amount the appellant to furnish security before the Tribunal to the extent of Rs. 50,000/-(Rs. fifty thousand).

6. Thus, this appeal stands allowed. No order to the costs. Record be despatched to the tribunal at an early date.

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