

Azeem Vs. Badri Prasad and Others

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Court : Madhya Pradesh

Decided On : Oct-03-2000

Reported in : 2001(2)MPHT135; 2001(2)MPLJ2

Judge : Mr. Bhawani Singh, C.J. and ;A.K. Mishra, J.

Acts : [Motor Vehicles Act, 1988](#) - Sections 168, 171 and 173; [Indian Penal Code \(IPC\), 1860](#) - Sections 279 and 337

Appeal No. : Misc. Appeal No. 639/99

Appellant : Azeem

Respondent : Badri Prasad and Others

Advocate for Def. : Shri Sanjay Agrawal, Adv.

Advocate for Pet/Ap. : Shri Shakeel Ahmed, Adv.

Disposition : Misc. appeal allowed

Judgement :

ORDER

Bhawani Singh, C.J.

This appeal is directed against the award dated 6-1-1999 passed by the Motor Accidents Claims Tribunal, Jabalpur, in Claim Case No. 73/94.

1. On 16-6-1990 when the claimant was going towards Adhartal Police Station from his house, truck No. M.P.K. 8965, driven rashly and negligently by the driver, hit the knee of his left leg, as a result of which his leg broke. The case was registered under Sections 279/337 of the Indian Penal Code. The claimant was admitted in the hospital where skin grafting was undertaken. He was helping his father in pushing the hand-cart. Claim for Rs. 2,78,000/- has been made.

2. The respondents have stated that the claimant suffered minor bruises and was treated only for a day. He was not earning anything nor he has suffered permanent disablement. The truck was driven slowly and carefully, but the claimant was driving the cycle rashly as a result of which he struck against the truck, fell down and suffered injuries.

3. The Insurance Company has disputed responsibility for payment of compensation. It is stated that the cart was being driven without permission and the driver of the truck did not possess valid driving licence.

4. The Claims Tribunal accepted the allegation of claimant and rejected the defence taken by the respondents. Ultimately, compensation of Rs. 47,000/- carrying interest at the rate of 12% per annum from the date of application till realisation has been awarded, besides Rs. 1,000/- towards counsel fee. The claimant is not satisfied with this award, hence this appeal.

5. Learned counsel for the claimant contends that the Claims Tribunal has not awarded just compensation in this case. The claimant suffered 50% disablement on account of the injuries sustained by him in this accident for which the driver was responsible. He spent sufficient amount on medical and underwent serious mental pain. The claimant received treatment for three months for the injuries he suffered in the accident. It is a case of 50% permanent disablement as per certificate (Ex. P-3) issued by the Medical Board. He was helping his father in pushing hand- cart and was earning Rs. 20/- to Rs. 25/- per day. Taking into consideration the nature of accident, nature of injuries, treatment and income of the claimant, we are of the opinion that interest of justice would not suffer in case the appeal is allowed and amount enhanced to Rs. 70,000/- payable towards 50% permanent disablement (Rs. 55,000/-), medical expenses (Rs. 10,000/-) and pain and sufferings (Rs.

5,000/-). The enhanced amount will carry interest at the same rate awarded by the Claims Tribunal.

6. The appeal is disposed of in terms as aforesaid. Costs on parties.

7. Misc. Appeal allowed.

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