

Madhiya Vs. Rameshchandra and ors.

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Court : Madhya Pradesh

Decided On : Jan-30-1987

Reported in : II(1987)ACC504

Judge : G.G. Sohani and ;R.K. Varma, JJ.

Appellant : Madhiya

Respondent : Rameshchandra and ors.

Judgement :

R.K. Varma, J.

1. This order shall also govern the disposal of M.A. No. 110/1983 (Rameshchandra and Anr. v. Madhiya and Anr.).

2. This is an appeal by the claimant Mddhiya S/o Sukhlal against the award dated 4-1-1983 passed by the Member M itor Accidents Claim* Tribunal, Dhar in Claim Case No. 30 of 1980 whereby the learned Tribunal has awarded compensation of Rs. 13,500/- with interest at the rate of 6% per annum as against the claim of Rs. 70,200/- made by the claimant-appellant. In the cross-appeal (MA. No. 110/83) filed by the owner and driver of the vehicle in question, they have sought setting aside of the award alleging negligence on the part of the claimant himself as the cause of accident.

3. The material facts leading to these appeals, briefly stated, are as under:

4. On 3-3-1980, Truck No. MPO 1890, loaded with manure, was being driven by the driver respondent No. 2 and the claimant along with other labourers, was sitting on the truck. The truck loaded of manure was being transported from Sayadi to Gandhwani and on the way near village Dhawarda, the truck passed over a stone due to the negligence of the driver causing a sudden jerk on account of which the claimant was thrown out from the truck and fell underneath its wheel which ran-over his right leg. He was taken to Barwani from the place of incident in injured condition for treatment, but his right leg had to be amputated from the thigh. The claimant, therefore, preferred the instant claim petition joining the truck owner, the driver and the insurer as non-applicants. The learned Tribunal, after trial, has held that the accident occurred due to rash and negligent driving of the truck by the respondent No. 2. The Tribunal found that the age of the claimant to be 28 years and determined the amount of compensation payable to him as Rs. 13,500/- as aforesaid. Being aggrieved by the inadequacy of the amount of compensation, the claimant has filed this appeal. The respondents No. 1 and 2 have, however, filed a cross-appeal (M.A. No. 110/83), as stated at the out-set.

5. Learned Counsel for the claimant-appellant has urged that the claimant, who is a labourer, has been permanently disabled on account of amputation of his leg and consequently he has become unfit for working as a labourer. The compensation amount of Rs. 13,500/- as awarded by the learned Tribunal was quite inadequate in the circumstances. The claimant was only 28 years of age as found by the Tribunal and as such, he would live a long life as a disabled person. The claimant was earning his livelihood by making shoes which according to the finding of the learned Tribunal, gave him an earning of Rs. 3/- per day in the village.

6. The learned Counsel for the respondents have urged that having regard to the wages of Rs. 3/- per day, which the claimant according to the finding of the Tribunal, was earning, the compensation of Rs. 13,500/- as awarded by the learned Tribunal was not inadequate. But this submission of the learned Counsel loses sight of better opportunities and prospects of life which the claimant, who

was only 28 years of age, was likely to get in life and it cannot be assumed that he would have been condemned to the meagre income of Rs. 3/- per day all through his life, particularly when he was a skilled artisan engaged in making of shoes which are among costly consumer items.

7. As regards the cross-appeal filed by the owner and the driver of the vehicle in question, the submission advanced on their behalf that the claimant who was sitting on the truck, fell down because of his own negligence, does not carry conviction and it is also not proved by the evidence on record.

8. Having heard the learned Counsel for the parties and having considered the evidence and the Award made by the learned Tribunal, we are of the opinion that the amount of compensation deserves to be enhanced appropriately. Having regard to the circumstances of the case an amount of Rs. 30,000/-, in our opinion, would be just and fair compensation which ought to be awarded to the claimant-appellant. Accordingly, the Award of the learned Tribunal is modified inasmuch as the claimant shall be entitled to compensation of Rs. 30,000/- instead of Rs. 13,500/- as awarded by the learned Tribunal. The claimant-appellant shall also be paid interest from the date of claim petition until realisation at the rate of 12% per annum instead of 6% as awarded by the learned Tribunal. But interest shall be payable only on the amount which is not already deposited by the respondents.

9. In the result, this appeal is allowed and the Cross-appeal (M.A. No. 110/83) filed by the owner and driver of the truck is hereby dismissed. There shall, however, be no order as to the costs in either of the two appeals.