

Babulal Vs. Devraj

Babulal Vs. Devraj

SooperKanoon Citation : sooperkanoon.com/508192

Court : Madhya Pradesh

Decided On : Mar-30-1993

Reported in : II(1994)ACC382

Judge : A.R. Tiwari, J.

Appellant : Babulal

Respondent : Devraj

Advocate for Def. : Shri. S.K. Vyas

Advocate for Pet/Ap. : Shri. H.S. Rajpal

Judgement :

A.R. Tiwari, J.

1. This appeal presented under Section 173 of the Motor Vehicles Act, 1988 is directed against the award dated 30.3.1990 rendered by Member, Motor Accidents Claims Tribunal in claim Case No. 75/88, thereby allowing the compensation of Rs. 2150/-. The appellant/claimant is dissatisfied by the quantum and prays for suitable enhancement.

2. Briefly stated the facts of the case are that the respondent No. 3 was the owner of Jeep No. MBD 703. At the relevant time respondent No. 1 was the driver on this Jeep. This vehicle was insured with respondent No. 2. It is alleged that the

respondent No. 1 drove this vehicle rashly and negligently on 22.7.1988 at about 7.30 a.m. to 8.00 a.m. The claimant was going on his bicycle. The Jeep hit the bicycle as a result of which, the claimant/appellant sustained numerous injuries in this accident. He, therefore, filed a claim petition and claimed compensation of Rs. 32050/-. The respondent opposed the claim and pleaded that they were not liable to pay any amount. On evaluation of the evidence, the Tribunal awarded the compensation of Rs. 2150/- together with interest at the rate of 12% p.a. from the date of application (13.9.1988) till realisation as follows:

Rs. 300.00 towards treatment;Rs. 300.00 towards loss of earning'Rs. 1500.00 towards damages;Rs. 50.00 towards repair of cycle._____Rs. 2150.00
Total_____

3. The claimant feeling dissatisfied by the quantum of the compensation has filed this appeal seeking suitable enhancement.

4. I have heard Shri H.S. Rajpal learned Counsel for the appellant and Shri S.K. Vyas learned Counsel for Respondent No. 2 (United India Insurance Co. Ltd. Indore)

5. Shri H.S. Rajpal submitted that the amount of compensation is evidently too low and deserves to be augmented in conformity with comparable cases. He placed reliance on the decision in Hardeo Kaur and Ors. v. Rajasthan State Road Transport Corporation and Anr. Reported in : [1992]2SCR272 .

6. I now turn to facts. At the time of accident, the appellant was aged 60 years. On sustaining injuries he had become unconscious. PW. 1 Dr. Yashwant Kumar Vyas, has proved injuries and has also stated that the appellant was hospitalised between 22.7.88 and 28.7.88. He sustained several injuries on various parts of the body. PW 2 Kanta Prasad has proved manner of accident. PW. 3 Babulal (appellant) has proved loss of income. He was engaged in milk business. PW 4 Ram Prasad Sunhare, stated about level of income. There is no evidence in rebuttal.

7. In 1980 ACJ 55 (SC) Concord of India Insurance Co. Ltd. v. Nirmala Devi it is held as under--

The determination of the quantum must be liberal, not niggardly since the law values life and limb in a free country in generous scales.

8. In the decision relied upon by Shri H.S. Rajpal the compensation of Rs. 5000/- in case of multiple abrasions on various parts of the body, was considered to be just and reasonable.

9. Apart from the inadequacy of compensation in the category of general damages, I find that the amount awarded towards treatment and loss of income is also too low.

10. Taking overall view of the evidence and attending circumstances, I find it proper to modify the Award as under:

Rs. 1000.00 towards medical treatment;Rs. 500.00 towards loss of income;Rs. 5000.00 towards general damages;Rs. 50.00 towards repair of bicycle._____Rs. 6550.00 Total_____

11. In the ultimate analysis, this appeal is allowed in part. The respondents are, thus, directed to pay to the appellant/claimant the sum of Rs. 6550/- together with interest at the rate of 12% p.a. from the date of application (13.9.1988) till realisation.

12. The respondent No. 3 shall bear its own costs and shall also pay the costs of the appellant. The Counsel fee is fixed at Rs. 750/- if certified.

13. The record of the Tribunal shall now be returned.