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SooperKanoon Citation : sooperkanoon.com/508488

Court : Madhya Pradesh

Decided On : Jan-20-1994

Reported in : 1995ACJ845

Judge : D.M. Dharmadhikari, J.

Appeal No. : M.A. No. 287 of 1986

Appellant : Ram Gopal

Respondent : Madhya Pradesh State Road Trans. Corpn. and anr.

Advocate for Def. : A.C. Dhonde, Adv.

Advocate for Pet/Ap. : S.L. Kapoor and ; Arun Kochar, Adv.

Judgement :

D.M. Dharmadhikari, J.

1. The appellant in this appeal claims enhanced compensation for the injuries sustained by him in the accident which took place on 12.11.1982 in the motor accident. The learned Member of the Claims Tribunal, under various heads of claim, awarded separate compensation, totalling Rs. 19,200/-.

2. The learned counsel appearing for the claimant, in this appeal, has made some attempt to point out that the compensation awarded under different heads is too

low and needs to be enhanced. Having perused the impugned order under appeal of the Claims Tribunal, I do not find that the compensation awarded is unreasonably low or is arbitrary and not based on any record. There is thus no scope of interference with that part of the quantum.

3. The argument advanced on behalf of the appellant, based on his application under Order 41, Rule 27 of the Code of Civil Procedure (in short 'the Code'), however, deserves serious consideration. Along with his application under Order 41, Rule 27 of the Code, dated 1.11.1993, the claimant has filed a certificate issued by Dr. Nirbhay Shrivastava, Professor of Orthosurgery, Gandhi Medical College, Bhopal and an estimate of the medical expenses for his further medical treatment, issued by Madras Institute of Orthopaedics and Traumatology. The certificates and the other medical papers filed in this appeal show that claimant has sustained injuries in his right hip with multiple fractures in his rib and a head injury. The doctor in Medical College, Bhopal, has advised him total hip replacement surgery for the right hip. The Institute of Orthopaedics and Traumatology accepts his case to be a fit case for 'Freeman cementless total hip replacement'. The estimated cost is shown in a separate document, totalling Rs. 94,600/-.

4. In a claim for compensation for personal injuries, the claimant is also entitled to be compensated for some medical aid which may be required in future. Before the learned Member of the Tribunal, the medical documents now produced in this appeal were not available. Hence the Tribunal cannot be blamed for not awarding any compensation for future medical treatment. In any case, the Tribunal ought to have considered the claim of compensation for future medical treatment in a case where fracture of such bones which may require replacement, was proved. [See following observations from Ratanlai & Dhirajlal: Law of Torts, 21st Edn., 1987, p. 164].

The plaintiff is obviously entitled to the expenses consequential to the injury. This item will include expenses incurred for taking the plaintiff to a hospital, purchase of medicines or equipment needed for his treatment, fees of private doctors, if consulted and similar other expenses. If the plaintiff will require medical aid in

future also, compensation for that too has to be allowed.

In the instant case admittedly, the claimant is a Government servant. As per Medical Reimbursement Rules, it is likely that some part of the expenses may be reimbursed to him by the Government.

5. The learned counsel appearing for the Corporation is right in submitting that such claim for future treatment cannot be allowed in appeal for which no foundation was laid before the Tribunal. The estimate of expenses shown in the medical papers before me will also require scrutiny and check for the purpose of finding out whether they are highly inflated or reasonable. The quantum of compensation for future medical treatment, therefore, cannot be decided without giving proper opportunity to the parties to lead evidence.

6. I, thereafter, partly allow this appeal and allow the application under Order 41, Rule 27 of the Code dated 1.11.1993 filed by the claimant. I remand the case to the Tribunal to afford opportunities to the parties to lead evidence only on the limited question of payment of compensation for future aid and medical treatment to the claimant. The learned Member of the Claims Tribunal shall decide the claim for future aid and medical treatment within a reasonable period of six months from the date of receipt of this order. The claim for enhancement of compensation on different heads in this appeal is hereby rejected and the award passed by the Claims Tribunal is hereby maintained.

7. With the above directions, the case is remanded to the Claims Tribunal for deciding the limited issue mentioned above. There shall, however, be no order as to costs. The parties are directed to remain present before the Claims Tribunal on 15.2.1994.