

Mukesh Vs. Madhya Pradesh State Road Trans. Corpn. and anr.

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Court : Madhya Pradesh

Decided On : Mar-14-1995

Reported in : 1995ACJ1083

Judge : U.L. Bhat, C.J.

Appeal No. : M.A. No. 171 of 1992

Appellant : Mukesh

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

Advocate for Def. : N.P. Mittal, Adv.

Advocate for Pet/Ap. : R.D. Goyal, Adv.

Disposition : Appeal allowed

Judgement :

U.L. Bhat, C.J.

1. The appellant herein, a boy aged 11 years, studying in 4th standard, was knocked down by a bus on 25.3.1986 and sustained several injuries including fracture of one of the legs. The bus belonging to M.P. State Road Transport Corporation, first respondent and was being driven by Harvansh Mohan, second respondent. The injured filed a claim petition before the Tribunal alleging that the accident was the result of rash and negligent driving and claimed a sum of Rs.

2,00,000/-. The respondents denied the cause of accident as alleged and denied that there was any impact by the bus belonging to respondent. The Tribunal upheld the claimant's contention regarding the nature and cause of the accident and awarded compensation of Rs. 19,000/- with interest at the rate of 12 per cent per annum from the date of the petition and costs. The claimant being not satisfied with the quantum of the award has filed this appeal. Respondents have not filed appeal but have filed cross-objection.

2. The respondents take the stand that the bus never hit Mukesh, PW 1, and was never driven rashly and negligently. The injured Mukesh, PW 1 and Bhagwan Singh, PW 2, were examined. The Tribunal has considered the evidence and accepted the evidence of Mukesh, PW 1, and Bhagwan Singh, PW 2. I find no reason to take a different view.

3. The Tribunal took the view that the injured did not sustain any permanent disability and awarded Rs. 15,000/- for pain and suffering, Rs. 2,000/- for mental agony and Rs. 2,000/- for the medical expenses. According to the appellant, the compensation awarded is too low while according to the respondent, the quantum awarded is excessive. Dr. A.K. Dubey, PW 4, was on duty at the relevant time in the Government Hospital, Gwalior, when the injured was admitted. He deposed that Mukesh, PW 1, was admitted in the Orthopaedics Ward in J.A. Hospital, Gwalior, on 25.3.1986 with fresh injuries on both the legs. There were lacerated wounds with bleeding on both the legs. His condition was not good. It was not possible to operate. According to him, the patient developed abdominal pain and frequent blood transfusion was given to the patient from the time of admission up to 29.3.1986. He also deposed that the patient was admitted on 20.5.1986 and discharged on the same day. Record of admission was proved as Exh. P-3. He deposed that he had taken X-ray; the X-ray report is Exh. P-4. Plaster was applied to both the legs. Exh. P-1 is the discharge certificate. The witness had examined the injured on 5.4.1988 and issued the certificate in which he has mentioned that the patient suffered from post-traumatic weakness and reformatory of left lower limb. According to him there was a scar mark and soft tissue contraction on right leg and knee also. According to this witness, Mukesh, PW 1, walks with a limp due to the injuries. According to the doctor, this is permanent disability. In cross-

examination he deposed that the treatment was given to the injured under the guidance of Dr. B. Das. He examined Mukesh, PW 1, in court and found him in the same position. According to him, the injured has got 50 per cent disability.

4. There is some confusion about the date of admission and date of discharge. Exh. A-1 which was the discharge ticket issued to Mukesh, PW 1, shows the date of admission as 25.3.1986 and the date of discharge as 20.5.1986. This is seen from the case record marked as Exh. P-3. Record shows that there was wound on the right leg and that there was a lacerated wound and bone was visible. On the left leg also there was a lacerated wound and bone was frequently seen. Record shows that blood transfusion was also given. Since Mukesh's attendant's blood did not match, blood was procured. The case was recorded as crushing injury in both the legs.

5. In the light of the above evidence it is futile to contend that Mukesh, PW 1, did not sustain any fracture or did not sustain any serious injury or there was no permanent disability. Limp on the leg is directly connected to the injury sustained. The leg of the injured was put on plaster and the treatment continued for two months. The fact that he is able to walk to the school does not make out a case for disallowing the claim. The injury caused permanent disability. The injured has considerable degree of pain and suffering with continuous discomfort which certainly would not make him fit for walking normally.

6. Having regard to all the circumstances of the case the quantum awarded by the Claims Tribunal is which cannot be said to be excessive. However, a sum of Rs. 50,000/- restricted in appeal by the appellant appears to be reasonable.

7. The impugned order is modified by increasing the award to the tune of Rs. 50,000/-. The appeal is allowed to the extent indicated above but without any order as to costs.