

C.A. Abraham Vs. M.P.E.B. Through Divisional Engineer and ors.

C.A. Abraham Vs. M.P.E.B. Through Divisional Engineer and ors.

SooperKanoon Citation : sooperkanoon.com/511013

Court : Madhya Pradesh

Decided On : Jan-02-2001

Reported in : 2001(5)MPHT92

Judge : Bhawani Singh, C.J. and ;Arun Mishra, J.

Appeal No. : Misc. Appeal No. 281/92

Appellant : C.A. Abraham

Respondent : M.P.E.B. Through Divisional Engineer and ors.

Advocate for Def. : V.N. Awasthy, Adv. for Respondent No. 1 and ;Amrit Ruprah, Adv. for Respondent No. 3

Advocate for Pet/Ap. : Aasif Usmani, Adv.

Disposition : Appeal allowed

Judgement :

ORDER

Bhawani Singh, C.J.

1. This appeal arises out of the award of the Motor Accidents Claims Tribunal Bhopal, in M.C.C. No. 32/84, dated 30-11-1991, whereby claim for Rs. 3,04,300.00 was made, but the Tribunal awarded Rs. 62,778.08 with interest at the rate of 12% per annum. Claimant is not satisfied with this award, therefore,

enhancement is claimed through this appeal.

2. The accident took place on 30-12-1983. Appellant was going on his scooter bearing registration No. CPD 4477 at about 10 p.m. from Bogda bridge towards railway station on the left side of the road when jeep bearing registration No. MBB 171 owned by the MPEB, came from the opposite direction, driven rashly, negligently and carelessly, dashed against the claimant's scooter from the front side, resulting in multiple injuries to the claimant and his brother-in-law. It appears that the claimant suffered injuries to second, third and fourth right ribs, shaft of femur (right), lateral condyl of tibia (right), shaft of fibula (right), mandible (left side), shaft of humerus (left), patela (left leg) and coil's right wrist. He remained in hospital for 199 days and subjected to operations on three occasions apart from resting in bed for treatment of these injuries.

3. Respondents 1 and 2 stated that the jeep was being driven at normal speed, while the scooter was being driven rashly and negligently as a result of which the jeep was parked on the left side of the road when the scooter struck against it resulting in injuries to the occupants of the scooter. It is further stated that the case was registered against the respondents by the police wrongly and the jeep was insured with the Oriental Fire and General Insurance Co. Ltd., Berasia Road, Bhopal. Insurance Co. has stated that the accident did not take place due to the fault of the jeep driver, though it is admitted that the jeep was insured with it, but the claim is exaggerated.

4. The Tribunal has come to the conclusion that the accident was committed by the jeep since it was being driven rashly and negligently and hit the scooter which was not being driven rashly and negligently, nor it struck against the jeep as alleged. It also found that the claimant sustained injuries to his right foot and mandible as a result of which he can neither walk nor take food; his right leg has also shortened to 2-1/2'. Consequently, compensation of Rs. 62,778.08 has been awarded with interest at the rate of 12% per annum.

5. Learned counsel for the appellant submits that the Tribunal has not awarded just compensation in this case. The claimant suffered large number of serious injuries in this accident for which he had to take treatment for months together,

subjected to medical operations, shortening of leg by 2-1/2' and had to suffer severe pain throughout his treatment. Therefore, the compensation deserves to be enhanced considerably.

6. Smt. Ruprah, learned counsel for respondent No. 3 Insurance Co. and Shri Vivek Awasthy, learned counsel for respondent No. 1, MPEB submit that the claimant is a Government servant, he did not suffer financial loss due to this accident and whatever expenditure was incurred in the treatment, has been awarded by the Tribunal, therefore, prayer for enhancement is not justified and the claimant got promotion also after the accident.

7. Giving our serious consideration to the matter and taking into consideration the respective submissions advanced by learned counsel for both sides, we are of the opinion that the claimant has not been justly compensated by the Claims Tribunal in this case. If one looks at the nature of the injuries suffered by the claimant, it is crystal clear that they are serious and spread over on all vital parts of the body. The accident was serious and caused by the jeep owned by the MPEB, driven rashly, negligently and carelessly by the driver whose defence is of denial of the accident and throwing of liability for committing the same on the claimant is baseless. The nature of injuries suffered by the claimant has been narrated in the preceding part of the judgment, therefore, instead of repeating the same and burden the judgment by adopting that course, suffice it to say that they are serious in nature; that is why the claimant had to remain in hospitals for number of months, apart from staying at home for more than a year. The doctor treating him has specifically mentioned the percentages of various injuries suffered by him and the disability suffered by the claimant to the extent of 65%. His mandible has been seriously affected and so are his ribs. There is shortening of leg to the extent of 2-1/2'. With this background, it can be said that the claimant underwent serious constant pain during the course of his treatment. His life has been affected to a great extent; he is not in a position to enjoin his pursuits of life and the injuries would haunt him for the remaining of his life.

8. Consequently, it would be just and proper to enhance the compensation for the disability, mental pain and suffering and deprivation of enjoyment of life, to Rs.

1,00,000.00, apart from the amount already awarded by the Tribunal. The enhanced amount shall carry interest at the rate of 10% per annum from the date of application till payment.

9. The appeal is allowed in terms aforesaid. Costs on parties.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com