

Somchandra Vs. Ramdas and ors.

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Court : Madhya Pradesh

Decided On : Apr-06-2005

Reported in : III(2005)ACC193; IV(2006)ACC212; 2006ACJ1880

Judge : S.K. Gangele, J.

Appeal No. : M.A. No. 488 of 2002

Appellant : Somchandra

Respondent : Ramdas and ors.

Advocate for Def. : S.V. Dandwate, Adv.

Advocate for Pet/Ap. : Sanjay Patwa, Adv.

Judgement :

S.K. Gangele, J.

1. This is claimant's appeal for enhancement of compensation against the award dated 20.11.2001 passed by the 12th M.A.C.T., Indore, in Claim Case No. 42 of 2000.

2. On 21.12.1997 at around 9 or 10 in the morning the appellant was standing near Collectorate at A.B. Road, Shajapur. He was dashed by truck bearing No. MP 09-D 9955 driven negligently and rashly by the driver. He received serious injuries

on his head and eye. He was treated at Shajapur and Indore. Report of the incident was lodged with the police and a criminal case has also been registered against the driver of the truck. Thereafter, he filed the claim application claiming compensation of Rs. 4,00,000.

3. The learned Claims Tribunal has held that the accident occurred due to rash and negligent driving of the driver of the truck and owner, driver and the insurance company of the truck were liable to pay compensation. Learned Tribunal further held that because there was head injury to the appellant and fracture in parietal bone of the head of the appellant hence there was 30 per cent permanent disability to him and granted total compensation of Rs. 45,000, i.e., Rs. 20,000 for permanent disability, Rs. 20,000 for medical expenses and Rs. 5,000 for pain and suffering.

4. learned Counsel for the appellant contended that the compensation awarded to the appellant was on lower side. learned Counsel for respondent No. 3 contended that the award is according to law.

5. It is clear from the findings of the Tribunal that there was a fracture on the parietal bone of head of the appellant and there was also blood clotting in his right eye and due to the aforesaid injuries he has been suffering from headache and swelling in one eye and he could not work properly on his shop of motor pump. Earlier he was earning Rs. 4,000 per month from the shop. Dr. Ashish Mehta, who is a neurologist, specifically deposed that appellant suffered head injury and sustained 30 per cent permanent disability. However, the learned Tribunal did not assess properly the loss of future income of the appellant. Appellant was aged 40 and as per Second Schedule for assessing the loss of income it would be proper to apply multiplier of 15 which is applicable between the age group of 40 and 45 years and if his income is assessed to be at Rs. 2,000 per month then his annual income comes to Rs. 24,000 and total loss of income comes to Rs. 3,60,000 and 30 per cent of above comes to Rs. 1,20,000. The Claims Tribunal has already awarded Rs. 20,000 to the appellant on this count. In my opinion, it would be just and proper if the appellant is awarded enhanced compensation of Rs. 75,000 on the count of loss of future income.

6. On the basis of above discussion the appeal of the appellant is partly allowed to the extent that the appellant will get enhanced compensation of Rs. 75,000 with interest at the rate of 6 per cent per annum from the date of filing of the claim application before the Tribunal till realization. The impugned award is modified to the extent indicated above. In the facts and circumstances of the case there is no Order as to costs.

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