

Sabir Vs. Ramesh

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Court : Madhya Pradesh

Decided On : Sep-30-2000

Reported in : II(2001)ACC102

Judge : A.K. Gohil, J.

Appellant : Sabir

Respondent : Ramesh

Judgement :

A.K. Gohil, J.

1. Heard on the question of admission. This matter is finally heard with the consent of the parties.

2. The appellant Sabirkhan has preferred this appeal under Section 173 of the Motor Vehicles Act for enhancement of compensation. As per the findings recorded by the Claims Tribunal Sabirkhan was working as helper on the MPSRTC bus and plied the said bus unauthorisedly on highway at midnight and dashed with the truck. As per the findings recorded in para 11 appellant Sabirkhan was solely responsible for causing the accident but the Tribunal has granted Rs. 30,000/- and thereafter on the principle of contributory negligence awarded Rs. 15,102/- to the applicant.

3. Looking to the evidence and the facts and circumstances on record this is not a fit case for enhancement of compensation to the applicant because the accident took place due to the negligence of appellant Sabirkhan himself, therefore, the Tribunal has rightly concluded the matter that the applicant is only entitled for 50% of the total claim. I do not find any ground for enhancement of any compensation.

4. The Tribunal has not awarded the interest on the claim amount from the date of the application and has only awarded from the date of the award dated 28.4.1993. As per the normal practice in the accident claim cases interest should be awarded from the date of application and not from the date of order unless otherwise directed in the peculiar circumstances of the case. Therefore, on this limited question this appeal is allowed and it is directed that the aforesaid amount of claim of Rs. 15,102/- shall carry interest @ 12% p.a. from the date of application i.e., 29.9.1992 till its final payment.

5. With the aforesaid observation this appeal is partly allowed and the award shall, accordingly, be treated as modified to the extent indicated above. The respondent Insurance Company shall deposit the balance amount of interest within 45 days from the date of receipt of the copy of this order. No order as to cost. C.C. in 15 days.