

Arun Vs. Abdul Rashid and ors.

Arun Vs. Abdul Rashid and ors.

SooperKanoon Citation : sooperkanoon.com/511405

Court : Madhya Pradesh

Decided On : Aug-05-2008

Reported in : 2009ACJ2181

Judge : J.K. Maheshwari, J.

Appellant : Arun

Respondent : Abdul Rashid and ors.

Judgement :

J.K. Maheshwari, J.

1. This appeal is filed by the appellant under Section 173 of the Motor Vehicles Act against an award dated 10.8.2005 passed by learned Third M.A.C.T., Ujjain in Claim Case No. 16 of 2005. By the impugned award, the Tribunal has awarded a total sum of Rs. 1,66,865 with interest to the appellant by way of compensation for the injuries sustained in the accident occurred on 22.10.2004.

2. Appellant had preferred a claim petition under Section 166 of Motor Vehicles Act, seeking compensation to the tune of Rs. 8,00,000. According to the appellant compensation awarded by the Tribunal is meagre and deserves enhancement, however, by filing the appeal inadequacy of the compensation has been assailed.

3. It is not necessary to narrate the entire facts in detail, such as how the accident occurred, who was negligent in driving the offending vehicle, who is liable to pay compensation, etc., because the Tribunal has already recorded the findings in favour of the appellant, none of those findings have been challenged at the instance of the respondents, that is, owner/driver/insurance company by filing cross-objection or cross-appeal. In that view of the matter it is not necessary to burden the judgment by detailing the facts on all these issues.

4. Mr. Manish Jain, the learned Counsel for the appellant submits that this case of amputation of left hand of 6 years old boy from the wrist, however, the Tribunal has awarded compensation of Rs. 1,66,865 in lump sum, which is on lesser side and also relied on the judgment of Division Bench of this Court in the case of *Rekha v. Shri Travels* : 2003 ACJ 1559 (MP). It is argued that at least Rs. 3,00,000 ought to have been awarded by the Tribunal, therefore, compensation awarded by the Tribunal is liable to be enhanced.

5. Mr. Mayank Upadhyay, the learned Counsel appearing for respondent insurance company submits that amount of compensation as awarded by the Claims Tribunal is appropriate, just and reasonable. If the percentage of permanent disability and the multiplier which is applicable, (sic) even then compensation is sufficiently awarded by the Tribunal, however, this appeal is liable to be dismissed.

6. After having heard, learned Counsel for the parties and on perusal of the records, it is not in dispute that 6 years old boy has lost his left hand from wrist due to amputation. However in such a case not only the loss of earnings is required to be taken note, but also for pain and suffering of whole life and some amount for future prospects of life and artificial limb is required to be awarded. Considering all these aspects, I am of the considered view that it is a fit case in which Rs. 1,25,000 may be awarded in the aforesaid heads in addition to the compensation as awarded by the Claims Tribunal.

7. In view of the aforesaid, this appeal is allowed in part and the appellant is held entitled to receive total sum of Rs. 1,25,000 in addition to the amount of compensation already awarded by the Tribunal. The enhanced amount shall carry

interest at the rate of 7.5 per cent per annum from the date of application till its realization. In the facts and circumstances of the case, parties are directed to bear their own costs.

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