

Reena Vs. Mohd. Rafeeq and ors.

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Court : Madhya Pradesh

Decided On : Nov-10-2005

Reported in : I(2006)ACC690; 2007ACJ769

Judge : N.K. Mody, J.

Appellant : Reena

Respondent : Mohd. Rafeeq and ors.

Advocate for Def. : Mr. Vinay Zilawat

Advocate for Pet/Ap. : Mr. Rajesh Lal

Judgement :

N.K. Mody, J.

1. Being aggrieved by the inadequacy of the amount awarded vide award dated 9.2.1998 passed by the Third M.A.C.T., Dewas in Claim Case No. 167 of 1997, whereby a sum of Rs. 51,000 has been awarded along with interest at the rate of 12 per cent per annum, the present appeal has been filed.

2. Learned Counsel for the appellant submits that in the accident appellant who was aged seven years at the time of accident sustained injuries in her hand. It is submitted that right hand of the appellant was crushed. Appellant was hospitalised from 18.8.1994 to 27.9.1994. Break-up of amount awarded is as under:

Towards medical expenses Rs. 5,000
Towards expenditure incurred on attenders Rs. 5,000
Towards future expectations of life Rs. 5,000
Towards future loss of income Rs. 36,000

3. It is submitted that amount awarded is at lower side. From the medical evidence it is proved that appellant has sustained permanent disability of 48 per cent for which the medical certificate of Dr. Das is on record. It is submitted that appellant, who is a girl has lost her future prospects of marriage. It is also submitted that appellant is studying in class X and appellant would not be able to write with her right hand.

4. Mr. Rajesh Lal, learned Counsel for the appellant placed reliance on a decision in the case of Kewal Mehra v. Jai Paul Singh , wherein the injured was unmarried young lady of 25 years who sustained permanent disability of 50 per cent on account of disfiguration of face and scalp and was awarded a sum of Rs. 3,90,000 holding that her marriage prospects have become dim.

5. Further reliance was placed by Mr. Rajesh Lal on a decision in the case of Dikcha v. Jamaluddin , wherein in a case where injured was a young lady who sustained compound fracture in tibia and fibula of both legs, skin grafting was done, legs lost their natural shape and injured became bow-legged and was not in a position to move in the society freely unless she covers her lower portion of body completely, deformity and damaged skin diminished marriage prospects. The Tribunal awarded an amount of Rs. 2,70,522. Divisional Bench of this Court enhanced it to Rs. 5,00,000.

6. Mr. Vinay Zilawat, learned Counsel for respondent No. 4 submits that looking to the injuries sustained by the appellant, the amount awarded is just and proper.

7. From perusal of the record it is evident that there was crush injury in the right hand and also fracture. It was found that there was a deformity in the palm of right hand and also weakness in palm of right hand grip. Appellant is also present at the time of hearing and this Court was also having occasion to see the appellant. From her personal appearance it is apparent that there is deformity in her palm of right hand and she has to move in the society with deformation in her hand as it

cannot be covered in any manner. No doubt it has diminished the marriage prospects of the young lady. Appellant has also suffered a lot on account of accident. Her education has also been disturbed.

8. In the facts and circumstances of the case, the amount awarded by the learned Tribunal is on the lower side. From the medical certificate it is also evident that the disability has been assessed vide Exh. P23 as 48 per cent. In the opinion of this Court the amount of Rs. 51,000 as awarded by the learned Tribunal is on the lower side. Same is enhanced to Rs. 2,00,000. Enhanced amount of Rs. 1,49,000 shall carry interest at the rate of 6 per cent per annum from the date of filing of the application. The enhanced amount shall also be paid by the respondent Nos. 1, 2 and 4 as directed by the learned Tribunal. The amount awarded shall be deposited with a nationalised bank and will be utilised for the betterment of the appellant, which also includes her education and marriage.

With the aforesaid observations, appeal stands disposed of.

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