

**Subhash Vs. Manish and ors.**

**Subhash Vs. Manish and ors.**

**SooperKanoon Citation :** [sooperkanoon.com/511605](http://sooperkanoon.com/511605)

**Court :** Madhya Pradesh

**Decided On :** Aug-05-2008

**Reported in :** 2009ACJ2579

**Judge :** J.K. Maheshwari, J.

**Appellant :** Subhash

**Respondent :** Manish and ors.

**Advocate for Def. :** Mr. R.J. Pandit

**Advocate for Pet/Ap. :** Mr. Manish Jain

**Disposition :** Appeal allowed

**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 25.8.2006 passed by learned Twelfth Motor Accidents Claims Tribunal, Indore in Claim Case No. 135 of 2005. By the impugned award, the Claims Tribunal has awarded a total sum of Rs. 2,00,000 with interest to the appellant by way of compensation for the injuries sustained in the accident occurred on 28.5.2005.

2. Appellant had preferred a claim petition under Section 166 of Motor Vehicles Act, seeking compensation to the tune of Rs. 20,00,000. 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, i.e., owner/driver/insurance company by filing any 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, learned Counsel for the appellant submits that as per the evidence, which is on record, it is apparent that appellant has no control over urinous and on call of nature on account of injuries received in the accident. However in such cases, compensation ought to have been awarded not less than Rs. 5,00,000 because a boy of 12 years would suffer for whole life. Reliance has been placed on Division Bench of Karnataka High Court in the case of National Insurance Co. Ltd. v. Krishnappa : 2001 ACJ 1105 (Karnataka).

5. On the other hand, Mr. R.J. Pandit, learned Counsel for the respondent insurance company submits that the Tribunal has rightly awarded Rs. 70,000 in the head of permanent disability and Rs. 30,000 for pain and suffering, Rs. 85,000 for medical expenses and Rs. 15,000 in other heads, therefore, the compensation awarded by the Claims Tribunal is just and reasonable in the facts and circumstances of the case.

6. After having heard learned Counsel for the parties and on perusal of the records, it is apparent that it is not a case in which loss of earnings is directly involved, but it is a case where a 12-year old boy, who has to suffer for entire life due to injuries received by him and he has no control over urination and on call of nature. He is also not in a position to do hard work for entire life. It is necessary for him to regulate his life through one attendant. Considering all these aspects, I am

of the considered opinion that it is a fit case in which Rs. 1,50,000 in addition to the compensation already awarded by the Claims Tribunal deserves to be enhanced.

7. In view of the aforesaid, this appeal is allowed in part and appellant is held entitled to receive total sum of Rs. 1,50,000 in addition to the amount of compensation already awarded by Claims 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](http://sooperkanoon.com)**