

Vijaykumar Vs. Shabbir and ors.

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Court : Madhya Pradesh

Decided On : Jul-07-2003

Reported in : 2004ACJ522

Judge : Deepak Verma and ; S.K. Seth, JJ.

Appeal No. : M.A. No. 311 of 2003

Appellant : Vijaykumar

Respondent : Shabbir and ors.

Advocate for Def. : Anil Goyal, Adv.

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

Judgement :

Verma and Seth, JJ.

1. The claimant has come up in appeal for enhancement of compensation, awarded by Addl. Motor Accidents Claims Tribunal, Jaora in the M.V. Case No. 13 of 2002 decided on 15.11.2002.

2. The claimant, a young boy aged 5 years, met with a road accident on account of rash and negligent driving of the offending vehicle by the respondent No. 1. The vehicle, at the time of accident was owned by respondent No. 2 and was insured

with respondent No. 3.

3. According to claimant, on account of personal injuries, sustained by him, he was required to undergo a prolonged treatment at various places, including Baroda (Gujarat). From the evidence on record, it is clear that the claimant sustained a crushed injury in the left foot, as a result, his left paw was amputated.

4. Dr. S.K. Bahal, PW 2, has stated before the Tribunal, that left leg of the claimant is shortened by 1' and as per Exh. PA-96, the claimant had sustained in the lower leg 53 per cent permanent disability and overall disability sustained by him is 21 per cent. The doctor has stated, that the claimant would find it difficult to walk and as he will grow in age, the disability will gradually increase.

5. The Tribunal considering the evidence, has awarded a sum of Rs. 76,000 to the claimant. After hearing the learned counsel for parties and after going through the record and the expert's evidence of Dr. S.K. Bahal, PW 2, in our opinion, the award of Rs. 76,000 is too meagre.

6. On account of the injury which lead to the amputation of paw, the appellant will have to live with this disability throughout his life. His marriage prospects are also substantially diminished. Undoubtedly, the appellant, a young boy, has been deprived of the natural pleasures of walking, running, playing, climbing, etc. In our opinion, a total sum of Rs. 3,00,000 (rupees three lakh) inclusive of all the medical expenses, past and future, would be just and proper compensation, which, the appellant is entitled to recover from the respondents, jointly and severally.

7. Thus, the appeal is partly allowed to the extent indicated above. The impugned award is modified to the extent as aforesaid. The enhanced amount shall carry interest at the rate of 8 per cent per annum from the date of application, till it is actually paid to the appellant.

8. The respondent No. 3 shall bear the costs throughout. Counsel's fee Rs. 1,000, if, certified.