

Devendra Kumar Vs. Rajendra Singh and ors.

Devendra Kumar Vs. Rajendra Singh and ors.

SooperKanoon Citation : sooperkanoon.com/511877

Court : Madhya Pradesh

Decided On : Feb-01-2007

Reported in : 2008ACJ1611

Judge : Abhay Gohil and ;P.K. Jaiswal, JJ.

Appellant : Devendra Kumar

Respondent : Rajendra Singh and ors.

Disposition : Appeal dismissed

Judgement :

Abhay Gohil and P.K. Jaiswal, JJ.

1. This is claimant's appeal for enhancement of compensation under Section 173 of the Motor Vehicles Act against the award dated 28.4.2000 passed by Second Additional Motor Accidents Claims Tribunal, Morena in Claim Case No. 17 of 1999.

2. Brief facts of the case are that on 13.3.1998 the appellant-injured, Devendra Kumar, was travelling on his own scooter and at 2 p.m. he was going from Gwalior to Morena. One Brijmohan was sitting as a pillion rider on the scooter. The claimant is working as a constable in 5th SAF Battalion. When he reached near the Battalion Camp, a tanker No. MP 06-E 0145, which was being driven rashly

and negligently, came and dashed the scooterist. As a result of the accident appellant and pillion rider Brijmohan both received severe injuries. The matter was reported to the police, crime was registered and the appellant-claimant filed claim petition for compensation. The claim was contested. But after recording the evidence of the parties the Claims Tribunal recorded a finding that the accident took place because of rash and negligent driving by the driver of the tanker and appellant was not responsible for the accident. Claims Tribunal has also found that appellant's right leg has been amputated and he became permanently disabled. The Tribunal has awarded a sum of Rs. 1,20,000 in the head of permanent disability, Rs. 9,000 towards expenses in treatment and Rs. 16,000 for loss of four months wages and thus awarded lump sum compensation of Rs. 1,45,000. Against which the appellant has filed this appeal for enhancement of compensation.

3. We have perused the evidence on record. There is no dispute that the appellant became permanently disabled, his right leg has been amputated. It is stated that he is a constable, though still working and receiving the same salary but he may not receive promotion in future and he will always remain at the mercy of the police officers those who will allow him to continue in the job. After considering the total evidence on record, since the appellant is in job and he is getting full salary and he cannot be promoted in future, therefore, we assess the loss towards future prospects as Rs. 1,000 per month and Rs. 12,000 per year. It is also not in dispute that the appellant is a young person aged about 26 years. On this age group multiplier of 18 would be applicable. On application of the aforesaid multiplier we compute the total loss towards future prospects as $\text{Rs. } 12,000 \times 18 = \text{Rs. } 2,16,000$. Claims Tribunal has awarded Rs. 9,000 in the head of treatment. Looking to the amputation and difficulties we award a sum of Rs. 50,000 in the head of medical treatment in future. It is stated that he was on leave for five months and the Tribunal has awarded salary only for a period of four months. We consider the nature of injuries and award six months' wages to the appellant as Rs. 24,000. For a period of six months the claimant has suffered severe pain and mental torture, therefore, we award independently a sum of Rs. 10,000 under this head. We further award a sum of Rs. 10,000 for the services of one attendant and for special diet for six months. Thus, the total amount of compensation is worked

out to Rs. 3,10,000 (rupees three lakh ten thousand), which would be just and proper compensation in the light of the evidence on record.

4. Thus, we enhance the total compensation from Rs. 1,45,000 to Rs. 3,10,000. The enhanced amount will also carry interest at the rate of 8 per cent per annum from the date of filing of appeal. Consequently, this appeal is allowed and disposed of in the manner as indicated above. Counsel's fee Rs. 1,000.

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