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Rameshchandra Vs. Citizen Transport Company Pvt. Limited and ors.

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Court : Madhya Pradesh

Decided On : Jul-05-2005

Reported in : IV(2005)ACC68; 2006(2)MPLJ12

Judge : R.V. Raveendran, C.J. and ;A.M. Sapre, J.

Appellant : Rameshchandra

Respondent : Citizen Transport Company Pvt. Limited and ors.

Advocate for Def. : Mr. Anil Goyal

Advocate for Pet/Ap. : Mr. Sanjay Patwa

Judgement :
ORDER

1. This is an appeal filed by the claimant under Section 173 of the Motor Vehicles Act against an award, dated 26.7.2001, passed by learned 1st Additional Member, Motor Accident Claims Tribunal, Shajapur (M.P.) in Claim Case No. 48 . of 1999.

2. It is an injury case sustained by the claimant, aged 40 years in car accident on 2.2.1999. The injury was in his right leg which got fractured. Due to this injury, he was hospitalized 3 times and underwent operations. In the opinion of doctor, Dr. N.K. Gupta (P.W. 3), claimant suffered in his leg what is called in medical terminology 'Osteoporosis' in his fibula bone in leg due to which 35% disability of permanent nature resulted in leg. The claimant filed claim petition against owner,

driver and Insurance Company of the offending vehicle. He also led evidence. On contest, the Tribunal by impugned award, awarded a total sum of Rs. 70,000/- by way of compensation to the claimant. It is against this award the claimant'has filed this appeal seeking enhancement in the compensation awarded by the Tribunal. According to claimant, what is awarded by the Tribunal is on lower side and hence, need to be enhanced. So the question that arises for consideration in this appeal is, whether any case for enhancement is made out in the compensation already awarded by the Tribunal and if so, to what extent?

3. Heard Mr. Sanjay Patwa, learned Counsel for the appellant and Mr. Anil Goyal, learned Counsel for respondent No. 3 - Insurance Company.

4. Having heard learned Counsel for the parties and having perused record of the case, we are inclined to allow the appeal in part and enhance the compensation to some extent as indicated infra thereby modifying an award in favour of claimant (appellant herein).

5. We have gone through the evidence adduced by the claimant. Having gone through the same, we find that looking to the nature of injury mentioned supra and the resultant loss sustained by the claimant who is aged 40 years and is a cultivator by profession, a sum of Rs. 70,000/- appears to be on lower side and hence, need to be enhanced as indicated infra.

6. In our opinion, the claimant is held entitled to claim the compensation under various heads as under:

1. Rs. 40,000/- Expenses incurred in medical bills.2. Rs. 35,000/- Pain/sufferings.3. Rs. 20,000/- Expenses diet/transportation/special attendance.4. Rs. 15,000/- Loss of earning during period of hospitalization.5. Rs. 1,00,000/- Future loss of earning capacity.----------Total Rs. 2,10,000/-

7. We have made the aforementioned determination after taking into account entire evidence led by the claimant and we find that it is a reasonable, proper and legal sum payable to the claimant for the injury sustained by him in his leg. Indeed, due to permanent disability resulted in vital part of body i.e., leg, the claimant is not

able to move freely nor he is in a position to attend his daily work.

8. So far as other findings are concerned, they are answered in favour of claimant and hence, need not be taken note of. In the absence of any cross-objection and/or appeal at the instance of respondents, those findings are upheld being not impugned by either of the parties.

9. In view of foregoing discussion, the appeal succeeds and is allowed in part. Impugned award is modified by enhancing the awarded sum at Rs. 2,10,000/-. The enhanced sum alone shall carry interest at the rate of 6% p.a. from the date of claim petition till realization. As observed supra, all other findings of the Tribunal are upheld.

Counsel fees Rs. 500/-, if certified.

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