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Shiva Vs. Chander Mohan and ors.

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Court : Madhya Pradesh

Decided On : Jul-30-2003

Reported in : 2004ACJ2124

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

Appeal No. : M.A. No. 1428 of 2001

Appellant : Shiva

Respondent : Chander Mohan and ors.

Advocate for Def. : H.G. Shukla, Adv.

Advocate for Pet/Ap. : Hemant Vaishnav, Adv.

Judgement :

S.K. Seth, J.

1. This appeal has been preferred by the claimant for enhancement of the compensation awarded to him by the 3rd M.A.C.T., Indore in Claim Case No. 321 of 2000. The appellant met with the road accident on 27.7.2000. As a result of the accident the appellant sustained grievous injuries and remained in the hospital as an indoor patient from 28.7.2000 to 31.8.2000, i.e., a little more than a month. On account of the injuries sustained by the appellant his left leg has been amputated above knee joint. The Tribunal after analysing the evidence has awarded only a

sum of Rs. 1,47,340 to the appellant, who is a hammal by profession.

2. The learned counsel appearing for the appellant submitted that looking to the nature and the extent of injury which are duly proved by the medical evidence, the amount of compensation awarded by the Tribunal is grossly on the lower side. On the other hand, Mr. Shukla appearing for respondent No. 3 submitted that looking to the income of the appellant, the Tribunal has awarded just and proper amount of compensation which does not call for any interference.

3. After hearing the learned counsel for the parties and after going through the record, we find that the amount of compensation awarded to the appellant is on the lower side. From the medical evidence it is clear that the left leg above knee joint has been amputated. The appellant was hammal by profession; he cannot carry on the same profession. Thus, there is a substantial loss of his earning capacity. Dr. Ashish Mehrotra, AW 3, has given the disability certificate, Exh. P-9. From the perusal of disability certificate it is clear that the appellant has sustained a permanent physical functional impairment to the extent of 70 per cent.

4. In the considered opinion of this court a sum of Rs. 3,00,000 (three lakh) would be just and proper amount of compensation to the appellant; specially looking to the age and nature of work which he used to perform before he met with the accident. The physical pain and mental agony and the misery which appellant must have undergone and is likely to undergo in future cannot be described in words. Thus, we hold that the appellant is entitled to receive a sum of Rs. 3,00,000 from the respondents jointly and severally.

5. The appeal is partly allowed. The impugned award is modified to the extent indicated above. The enhanced amount shall carry interest at the rate of 6 per cent per annum from the date of application till the amount is actually paid to the appellant. Respondent No. 3 shall bear costs throughout. Counsel's fee Rs. 1,000, if certified.

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