

Mangilal Vs. Devkaran and ors.

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Court : Madhya Pradesh

Decided On : Jul-09-2003

Reported in : 2005ACJ189

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

Appeal No. : Misc. Appeal No. 781 of 2002

Appellant : Mangilal

Respondent : Devkaran and ors.

Advocate for Def. : Lokesh Mehta, Adv.

Advocate for Pet/Ap. : S.B. Shrungarpure, Adv.

Judgement :

Deepak Verma and S.K. Seth, JJ.

1. Mr. S.B. Shrungarpure, learned counsel for the appellant; none for respondent Nos. 1 and 2 though served; Mr. Lokesh Mehta, the learned counsel for respondent No. 3.

2. With consent arguments heard. The claimant has filed this appeal for enhancement of the compensation awarded to him by the 2nd M.A.C.T., Dhar in Claim Case No. 26 of 1999 decided on 30.1.2002.

3. On 15.11.1998, the appellant along with his wife was returning home in bus No. MP J 3-C 3965. The said bus belonged to respondent No. 2 and was being driven by the respondent No. 1. On account of the rash and negligent driving, respondent No. 1 lost control over the vehicle, as a result of which the bus fell into the river near Kalapipal. 5-6 other passengers travelling in the said bus died. The appellant sustained serious personal injuries. On account of the injuries the appellant was immediately rushed to the Government Hospital, Ujjain where for want of adequate medical facilities, appellant was referred to a Charitable Hospital at Ujjain. The appellant regained consciousness after 7 days. According to the appellant, on account of the injuries, particularly the head injury, the appellant has lost his memory as also sustained loss of vision.

4. The Tribunal on the basis of the evidence adduced by the appellant found that the appellant sustained permanent disability on account of the said accident, therefore, awarded a total compensation of Rs. 52,600 towards pecuniary and non-pecuniary losses.

5. We have heard Mr. Shrungarpure, learned counsel for the appellant at length. According to the learned counsel, looking to the nature and extent of the injuries, particularly the head injury, the amount awarded by the Tribunal is on the lower side. Learned counsel submitted that as per the medical evidence, it is clear that the appellant had sustained an internal head injury and on account of the said injury, the appellant also sustained partial paralysis. Learned counsel submitted that the amount of the compensation deserves to be enhanced so as to make it just and proper compensation.

6. Per contra Mr. Mehta supported the award and submitted that the Tribunal has awarded a just and proper compensation. Looking to the nature of injuries it cannot be said that the appellant has sustained substantial economic losses and the award of the Tribunal does not warrant any interference.

7. After having heard the learned counsel for the parties and going through the record, it is clear that after the accident, the appellant regained consciousness after 7 days and he was required to undergo a prolonged treatment. The learned counsel for the appellant is right in submissions that but for the treatment, the

appellant would have died as a result of the injuries sustained by him in the accident. From the evidence of Dr. Gautam, it is clear that the appellant sustained internal head injury which could have been fatal. The appellant has also suffered partial paralysis. The doctor has clearly stated that on account of the injuries on the head and neck, the other limbs of the appellant have adversely been affected. On a close scrutiny of evidence, we find that appellant had sustained grave and serious personal injuries for which in the considered opinion of this court, the appellant is entitled to recover a sum of Rs. 2,00,000, inclusive of past and future medical expenses from respondent Nos. 1 to 3 jointly and severally.

8. The appeal is partly allowed to the extent mentioned above.. The enhanced amount shall carry interest at the rate of 8 per cent per annum from the date of the application till it is actually paid. Respondent No. 3 shall bear the costs throughout. Counsel's fees Rs. 1,000, if certified.

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