

Sanjay Shrivastava Vs. Surendra Kumar Soni and ors.

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Court : Madhya Pradesh

Decided On : Jan-16-2003

Reported in : 2005ACJ1030

Judge : Bhawani Singh, C.J. and ;S.L. Jain, J.

Appeal No. : M.A. No. 995 of 2001

Appellant : Sanjay Shrivastava

Respondent : Surendra Kumar Soni and ors.

Advocate for Def. : Hemant Sen, ;R.P. Agrawal and ;Sanjay Agrawal, Advs.

Advocate for Pet/Ap. : Alok Aradhe and ;S. Bajaj, Advs.

Disposition : Appeal allowed

Judgement :

Bhawani Singh, C.J.

1. Through this appeal, award of Motor Accidents Claims Tribunal, Satna in Claim Case No. 117 of 1999 dated 25.4.2001, has been challenged.

2. On 2.7.1999, claimant was travelling in the jeep, bearing registration No. MP 19-A 7843 along with his family. He was going to Banda in connection with the marriage of his sister-in-law. The jeep owned by Poornanand Soni driven rashly

and negligently by Surendra Kumar Soni and insured with Oriental Insurance Co. Ltd. dashed against culvert and turned turtle. As a result of this accident, the claimant and his family suffered serious injuries and K.L. Shrivastava (father-in-law) died. Claimant suffered fracture of ribs resulting in serious injuries to parts around and under, fracture of pelvic bone, rupture of urethra, injuries to head and right hand, etc. He was hospitalised from 2.7.1999 to 20.8.1999 at Satna, Jabalpur and later on in Bombay also. Permanent disability suffered by the claimant is stated to be more than 70 per cent memory loss, inability to work with the right hand, unable to sit and walk for a long distance. The claimant was a practising advocate at District Satna for last about 10 years. He was being paid Rs. 5,000 by the insurance company as investigator and Rs. 2,000 by the senior advocate and Rs. 2,000 for doing cases privately. With regard to the income, the claimant has supported the statement by certificate of the insurance company also. As a result of these injuries, the claimant has also become unfit for sexual intercourse, therefore, procreation of child is impossible. There is paralysis on the right side. The allegation is that accident took place due to rash and negligent driving by jeep driver, otherwise it would not have taken place. After the accident, claimant has to stay at home, attend the hospital for treatment from time to time, therefore, in constant financial crisis.

3. The respondents contest the claim. They state that the claim is exaggerated for amount of Rs. 22,50,000. Moreover, Dr. S.K. Jain has given exaggerated version of the injuries suffered by the claimant. On the pleadings of the parties, the Claims Tribunal framed issues in the case, sought evidence, heard the parties and awarded compensation of Rs. 1,30,000, carrying interest at the rate of 9 per cent per annum.

4. Through this appeal, the award is challenged with regard to the quantum of compensation as well as extent of interest allowed by the Tribunal.

5. Mr. S. Bajaj, learned counsel for the petitioner urges that in view of serious injuries suffered by the claimant, award of compensation and interest is absolutely fanciful, therefore, it deserves to be enhanced substantially, since court has to award just compensation to the claimant, more so, in case of personal injuries, the

compensation has to be higher as compared to fatal cases, because in the former cases, it has to be utilised by claimant for himself, throughout his life. Mr. Sanjay Agrawal, learned counsel for the insurance company submits that the award has been passed on the basis of evidence, therefore, the enhancement is not justified.

6. Giving consideration to the whole matter, particularly the extent of injuries suffered by the claimant, we are of the considered opinion that the claimant has not justly been compensated in this case. According to Dr. S.K. Jain, AW 4, the claimant suffered oligaemic shock and recovered only due to prompt treatment and blood transfusion. He suffered head injury causing hemiplegia. There is fracture of right side rib. There is fracture of clavicle on left side which will certainly cause dysfunction of acromioclavicular and shoulder joint axial functions up to 10 per cent. There is multiple fracture of ribs/ bilateral haemothorax more on right side affected the chest expansion capacity and ventilation up to 15 per cent at present. There would be chronic chest pain in humid climate and difficulty in respiratory movements permanently. There is fracture of pelvic rami with rupture of urethra, again a serious complication needing periodical/lifelong treatment. Head injury complication, i.e., hemiplegia will definitely be damaging the psychological and intellectual functions. Doctor has put the permanent disability above 70 per cent. The claimant alleges that he has lost sexual capacity, therefore, cannot beget child and is incapable of working. He cannot sit and move properly for long. He has diminished thinking capacity and earning capacity. With this background, it is a fit case where the enhancement of compensation is justifiable.

7. Accordingly, the appeal is allowed, the award of Claims Tribunal is modified. The claimant is awarded the following compensation:

(1) Permanent disability Rs. 2,00,000(2) Medical expensespast and future Rs. 1,50,000(3) Physical andmental pain Rs. 1,00,000(4) Loss of income Rs. 3,00,000(5) Loss of marital life Rs. 50,000(6) Transport/attendant Rs. 20,000(7) Special diet Rs. 20,000-----Total Rs. 8,40,000-----

8. The claimant is awarded compensation of Rs. 8,40,000 (rupees eight lakh forty thousand), payable within 3 months with interest at the rate of 9 per cent on the enhanced amount from the date of application till payment.

Costs of the appeal be borne by the parties.

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