

Shobha Vs. Executive Engineer (S.T.C.), M.P.S.E.B. and ors.

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Court : Madhya Pradesh

Decided On : Jul-19-2007

Reported in : 2008ACJ2826

Judge : A.M. Sapre and ;Manjusha P. Namjoshi, JJ.

Appellant : Shobha

Respondent : Executive Engineer (S.T.C.), M.P.S.E.B. and ors.

Advocate for Def. : Mr. Mayank Upadhyay

Advocate for Pet/Ap. : Mr. S. Patwa

Judgement :

A.M. Sapre, J.

1. This is an appeal filed by the claimant under section 173 of the Motor Vehicles Act against an award dated 24.4.2006, passed by the learned Member, Motor Accidents Claims Tribunal, Shajapur in Claim Case No. 18 of 2005. By the impugned award, the Claims Tribunal has awarded a total sum of Rs. 1,68,982 with interest to the claimant by way of compensation for the injury which she sustained in an accident. According to claimant, i.e., appellant herein, the compensation awarded is on the lower side and hence, need to be enhanced. It is for the enhancement in the compensation awarded by the Tribunal, the claimant

has filed this appeal. So the question that arises for consideration is, whether any case for enhancement in compensation awarded by the Tribunal on facts/evidence adduced is made out in this appeal filed by the claimant-appellant and if so, to what extent?

2. Heard Mr. S. Patwa, learned Counsel for appellant and Mr. Mayank Upadhyay, learned Counsel for respondent insurance company.

3. It is not necessary to narrate the entire facts in detail such as how the accident occurred, who was negligent in driving the offending vehicle or claimant or who is liable to pay compensation, etc. and whether offending vehicle is insured or not?

4. It is for the reason that firstly all these findings are recorded in favour of claimant by the Tribunal and secondly, none of these findings though recorded in claimants' favour and against the respondents are under challenge at the instance of any of the respondents such as, owner/driver, or insurance company either by way of cross-appeal or cross-objection. In this view of the matter, we do not wish to burden our order by detailing facts on all these issues which are not really necessary.

5. As observed supra, it is an injury case sustained by claimant, Shobha, housewife, aged 45 years at the time of accident that occurred on 5.5.2004 at Ujjain Road with offending vehicle bearing No. MQU 527 owned by respondent No. 1, driven by the respondent No. 2 and insured with respondent No. 3. The injury sustained by her in this accident was in the nature of crush injury in her right hand due to which her muscle got damaged. She has also undergone several operations of her hand. Her skin grafting was also done even then the injury resulted in shortening of her right hand. Her elbow is advised by her doctors for replacement and doctors have further suggested two operations for making her hand operational. The injuries sustained by her has resulted in 62 per cent permanent of disability in her right hand.

6. According to claimant due to injuries sustained in her right hand she is unable to use her hand freely. Its movements are not the same as they used to do prior to accident. In other words, due to injury suffered by her in the accident in question,

her hands movements are now restricted and for all practical purposes, her right hand has become useless and inoperative.

7. We have gone through the evidence adduced by the claimant on the issue of injury sustained by her. In our opinion, taking into consideration the nature of injury, the extent of damage caused in the body, disability occurred in the body of appellant (claimant) as a result of which she is not now in a position to be as fit as she was prior to accident in her day-to-day work, thereby reducing her capacity to work, expenditure incurred in receiving medical treatment, the future loss and mental pain/ suffering suffered due to her involvement in accident, we consider it proper to enhance in lump sum under various statutory heads the compensation from Rs. 1,68,982 to Rs. 3,00,000.

8. In other words, in our view, the claimant is held entitled for a total sum of Rs. 3,00,000 by way of compensation for the injuries sustained by her.

9. The compensation awarded to the claimant is a just, reasonable and proper looking to the facts and circumstances of the case and taking into account the law laid down by the Supreme Court in these types of cases in relation to several heads taken note of supra with reference to evidence brought on record by the parties.

10. Indeed in such cases, no fixed and any static formula as such is provided for determining the compensation and the same is required to be determined on the basis of totality of evidence adduced and the relevant factors which are required to be taken into consideration as mentioned supra. It is on this basis, the courts have to work out award of reasonable compensation to the claimant for the injuries sustained.

11. Learned Counsel for the appellant cited some authorities for claiming enhancement. We have gone through these authorities. In our opinion and as observed supra, every case depends upon facts of each case and one can rely upon the cases for awarding compensation. Indeed taking into consideration these authorities and then applying the law so laid down to the facts of this case, we have arrived at the figure of enhanced compensation mentioned supra.

12. In this view of the matter, the appeal succeeds and is allowed in part. Impugned award is modified to the extent indicated above. The enhanced sum will carry interest at the rate of 6 per cent per annum from the date of application till realisation. All other findings are upheld being not under challenge.

13. Counsel's fees Rs. 1,500, if certified.

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