

Feran Singh Vs. Vimal Kumar and ors.

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Court : Madhya Pradesh

Decided On : Jan-23-2003

Reported in : II(2003)ACC604

Judge : P.C. Agarwal, J.

Appellant : Feran Singh

Respondent : Vimal Kumar and ors.

Judgement :

P.C. Agarwal, J.

1. Both Advocates heard.

2. By the impugned order dated 15.2.2000, Motor Accidents Tribunal, Bhind in Claim Case No. 46/1999, Feran Singh v. Vimal Kumar and Ors. has awarded a compensation of Rs. 35,000/- with interest @ 12% per annum from the date of claim to the date of payment with Advocate's fee Rs. 400/-. Appellant is a farmer owning 0.58 hectares land in village Pachhera and 1.850 hectares land in village Barhad. According to him, these lands remained fallow for two years as he was injured. He has suffered communicated fracture of upper half of tibia and fibula as per Ex. P2 in the accident. Orthopedic Specialist Dr. D.C. Dixit (P.W. 5) had assessed the disability at 40% vide his certificate (Ex. P6). No bills or vouchers for expenditure on medical treatment, special diet transport of the appellant or his

attendant were submitted before the Tribunal.

3. Here in this Court the appellant claimed that his disability was 80%. Certainly, the appellant cannot be believed at the face of contrary opinion of Dr. D.C. Dixit (P.W. 5). Thus this ground has no basis. In para 10 of his statement, he claimed that he has given his land on Batai. However, neither Bataidar is named nor examined in Tribunal. No reason has been shown by him why his land remained fallow for two years. Certainly, he was not on bed for all this time. He could have given the same on Batai for that period also Ombirsingh Bhadoriya (P.W. 4) examined by him has claimed that the fields of appellant are lying fallow for last three years. He avers that even his fields are lying without crop as the fields are waterlog. In para 3 he admits that sons of appellant look after to the agriculture from before the accident and event thereafter In these facts the claim of the appellant that his lands remained fallow for two years is not credible.

4. Certainly, the appellant has not claimed nor given evidence about his reduced earning capacity due to the accident. Actually claim has not been fought on that basis. In absence of either pleading or proof on that point the learned Tribunal could not help the appellant nor this Court can help him.

5. In view of the above discussion, there has been no substance or force in this appeal. The same is dismissed. However, both the parties shall bear their on cost. Advocate's, fee as per schedule.

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