

Ram Kishan Vs. Manoj Kumar and ors.

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Court : Madhya Pradesh

Decided On : Apr-25-2006

Reported in : II(2006)ACC685

Judge : S. Samvatsar and ;A.P. Shrivastava, JJ.

Appellant : Ram Kishan

Respondent : Manoj Kumar and ors.

Judgement :

S. Samvatsar, J.

1. This appeal is filed by the claimant challenging the award dated 6.9.1999 passed by I Additional Member Judge, Motor Accident Claims Tribunal, Morena in claim case No. 201/97.

2. Brief facts of the case are that the appellant-claimant has filed an application for compensation alleging that on 27.8.1997 he met with an accident with truck No. MP 07 A 8157 which was owned by respondent No. 1, driven by respondent No. 2 and insured by respondent No. 3.

3. According to the claim petition on 27.8.1997 at about 12.30 present appellant along with deceased Purushottam was travelling in a tractor UP 80 F 1014. At that time, truck which was driven rashly and negligently by respondent No. 2 dashed

against the trolley due to which the present appellant was injured. Claimant filed an application for compensation for the injuries sustained by him. Claims Tribunal awarded an amount of Rs. 15,000 towards permanent disablement and pain and suffering, Rs. 15,000 towards medical expenses and special diet and Rs. 3,750 towards loss of income for three months and total compensation awarded by the Claims Tribunal is 43,750.

4. This appeal is filed on the ground that the amount of compensation awarded by the Claims Tribunal is on the lower side.

5. Mr. M.P. Agrawal, learned Counsel appearing for the respondent No. 3 Insurance Company has supported the award.

6. As per the findings arrived at by the Claims Tribunal there was a fracture in the hip bone of the claimant and there was a fracture in the wrist of left hand. Even after the fracture was united, there was a deformity and he could not move his left hand. The Tribunal found that this injury has affected the earning capacity of the injured.

7. Claimant Ramkishan in his statement has stated that he was taking contracts of fruit bearing trees and was earning Rs. 50,000-60,000 per annum. He has not produced any documentary evidence to support this contention. However, after perusing the statement of the claimant, we assess his yearly income at Rs. 50,000, as there is no evidence in rebuttal. As per the finding of the Claims Tribunal, there is some difficulty in movement of left wrist. But that will not affect the earning capacity to a great extent. Disability affecting the earning capacity, can, at the most, be assessed at 5% of his total earning capacity. Thus, the loss of income per year will come to Rs. 2,550 per year. Appellant is 40 years of age. Hence, multiplier of 14 left be applicable. Thus, the claimant will be entitled to Rs. 15,000 towards loss of income caused to him in future. Claims Tribunal has awarded Rs. 15,000 towards medical expenses and special diet. We do not find any reason to interfere with the said findings. Hence, the claimant shall be entitled to Rs. 15,000 towards medical expenses and special diet. It has come on record that the appellant was in hospital for nearly one month. Claims Tribunal has found he was not in position to work for nearly three months. Considering this fact, we

award a sum of Rs. 7,500 for total loss of income for a period of three months during which he could not work. Thus, the total compensation comes to Rs. 57,500 (Rupees fifty-seven thousand five hundred only). The claimant shall be entitled to interest at the rate of six percent per annum from the date of application.

Appeal stands allowed in part.

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