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Court : Rajasthan

Decided On : Feb-04-1997

Reported in : I(1997)ACC535

Judge : D.C. Dalela, J.

Appeal No. : S.B. Civil Misc. Appeal No. 1002 of 1994

Appellant : Devidass Rao Deshmukh

Respondent : Rajasthan State Road Trans. Corpn.

Advocate for Def. : Virendra Agarwal, Adv.

Advocate for Pet/Ap. : K.N. Tiwari, Adv.

Judgement :

D.C. Dalela, J.

1. The appellant claimant was coming to his house from the factory on foot in the evening of 28.1.1992 and when he was passing through the bridge over Amanishah drainage, bus No. RSG 6223 of R.S.R.T. Corporation came at a very high speed and hit the appellant from behind and as consequence of this accident, the appellant claimant sustained very serious and grievous injuries and his both legs had to be amputated and, thus, he has sustained 100 per cent permanent disability of the legs. He preferred a claim petition before the learned Motor

Accidents Claims Tribunal, Jaipur City, Jaipur. A total compensation of Rs. 8,35,000/- was claimed. The appellant claimant examined three witnesses in support of his claim petition, they are Devi Dass, AW 1, Govind Ram Saini, AW 2 and Dr. M.K. Mathur, AW 3. The respondent examined two witnesses who are Shiv Pal, NAW 1 and Mohammed Saddiq Qureshi, NAW 2. The bus belongs to the respondent No. 2 and it was rashly and negligently driven by the driver, respondent No. 1. After going through the evidence and hearing both the sides, the learned Tribunal awarded a total compensation of Rs. 1,75,000/- along with interest at the rate of 12 per cent per annum. The award is dated 20.7.1994. Feeling aggrieved and dissatisfied with the quantum of compensation awarded by the learned Tribunal, the appellant claimant has preferred this appeal for the enhancement of the compensation.

2. I have heard the arguments of both the sides.

3. It has not been disputed before me that both the legs of the appellant claimant have been amputated and there is 100 per cent permanent disability of the lower limbs. Dr. M.K. Mathur, AW 3, has testified the amputation of both the legs of the appellant claimant and found 100 per cent permanent disability in the lower limbs. The medical certificate in this regard is Exh. 6.

4. In the case of Dr. Gop Ramchandani v. Onkar Singh 1993 ACJ 577 (Rajasthan) wherein there was amputation of one leg and consequent 50 per cent permanent disability, this Court has held that the amputation of leg has made the claimant dependent, changed the whole life-style and course of life of the injured and his further progress is marred and allowed Rs. 1,00,000/- each for physical and mental agony, permanent disability and loss of social life. Rs. 10,000/- were awarded for the medical expenses and special diet and thus, the total compensation was enhanced from Rs. 1,80,000/- to Rs. 3,10,000/-.

5. In the above said case, this Court has awarded Rs. 1,00,000/- each for physical and mental agony, permanent disability and loss of social life when there was amputation of only one leg and the permanent disability was 50 per cent only. Here, in this present case in hand, both the legs of the appellant claimant have been amputated and there is 100 per cent permanent disability in the lower limbs.

Therefore, in my opinion, Rs. 1,30,000/-each should be awarded for physical and mental agony, permanent disability and loss of social life and Rs. 10,000/- should be allowed for the medical expenses and special diet etc. Thus, in the present case where there is amputation of both the legs and 100 per cent permanent disability in the lower limbs, the total compensation of Rs. 4,00,000/- should be awarded to the appellant claimant and the learned Tribunal's award of Rs. 1,75,000/- deserves to be enhanced to Rs. 4,00,000/-.

6. No other point has been pressed and argued before me by both the sides.

7. In the result, this appeal is partly allowed. The learned Tribunal's award of Rs. 1,75,000/- is enhanced to Rs. 4,00,000 as indicated above. Other terms and conditions of the award are maintained and upheld. The award of the learned Tribunal shall stand modified accordingly.

8. There shall be no order as to costs.

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