

Jitendra Singh Vs. Islam and ors.

Jitendra Singh Vs. Islam and ors.

SooperKanoon Citation : sooperkanoon.com/761278

Court : Rajasthan

Decided On : Jul-25-1997

Reported in : 1998ACJ1301

Judge : D.C. Dalela, J.

Appeal No. : S.B. C.M.A. No. 833 of 1995

Appellant : Jitendra Singh

Respondent : islam and ors.

Advocate for Def. : D.K. Sharma, Adv.

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

Judgement :

D.C. Dalela, J.

1. Heard.

2. It is alleged that on 14.2.1992, bus No. RRM 1083, driven negligently and rashly by its driver, hit the appellant-claimant, as a result of which, his leg was amputated. He preferred a claim petition before the learned Motor Accidents Claims Tribunal, Jaipur City, Jaipur, which, after receiving the evidence and hearing both the sides, awarded a total compensation of Rs. 54,000/-. Feeling

aggrieved by the amount of compensation, the appellant has preferred this appeal for its enhancement.

3. From the judgment and award of the learned Tribunal, it is evident that as a result of the accident, the left leg of the claimant-appellant was amputated and he sustained a permanent disablement of 55 per cent.

4. The learned Tribunal has awarded Rs. 4,000/- on account of pecuniary damages-the expenses which the appellant-claimant incurred on his treatment, medicines, etc. A sum of Rs. 50,000/- has been awarded on account of non-pecuniary damages for the loss of amenities of life and mental agony, pain and suffering.

5. Hon'ble Supreme Court, in the case of R.D. Hattangadi v. Pest Control (India) Pvt. Ltd. 1995 ACJ 366 (SC), has laid down as under:

Broadly speaking, while fixing an amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; whereas, non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts, pecuniary damages may include expenses incurred by the claimant: (i) medical attendance; (ii) loss of earning of profit up to the date of trial; and (iii) other material loss. So far as nonpecuniary damages are concerned, they may include (i) damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters, i.e., on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life, i.e., on account of injury the normal longevity of the person concerned is shortened; and (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.

In this case, the Hon'ble Supreme Court has awarded non-pecuniary special damages of Rs. 3,00,000/-.

6. In the case of Dr. Gop Ramchandani v. Onkar Singh 1993 ACJ 577 (Rajasthan), this Court has awarded a compensation of Rs. 1,00,000/-, on account of the nonpecuniary special damages, when there was 50 per cent permanent disablement and there was amputation of one leg.

7. Here, in the present case in hand, one leg of the claimant-appellant was amputated and there is 55 per cent permanent disablement. Therefore, on the analogy of the decision in the case of R.D. Hattangadi v. Pest Control (India) Pvt. Ltd. 1995 ACJ 366 (SC), the claimant-appellant is entitled to a compensation of Rs. 3,00,000 on account of non-pecuniary special damages.

8. So far as the pecuniary damages in connection with the medical treatment, etc. are concerned, the learned Tribunal has awarded a sum of Rs. 4,000/-, which, in my opinion, is correct. Thus, a total compensation, which the claimant-appellant is entitled to, is Rs. 3,00,000/- plus Rs. 4,000/- = Rs. 3,04,000/-, in view of the principles laid down in Gop Ramchandani's case 1993 ACJ 577 (Rajasthan), by this Court; and in R.D. Hattangadi's case 1995 ACJ 366 (SC), by the Hon'ble Supreme Court.

9. In the result, the appeal is partly allowed. The total compensation is enhanced to Rs. 3,04,000/-, from the total of Rs. 54,000/- awarded by the learned Tribunal. To this extent, the award of the learned Tribunal shall stand modified. The other part, terms and conditions of the award, are maintained. The respondents are expected to make the payment of the compensation of Rs. 3,04,000/-, to the claimant-appellant, preferably within three months.