

Harminder Singh Vs. Gopal Singh and ors.

Harminder Singh Vs. Gopal Singh and ors.

SooperKanoon Citation : sooperkanoon.com/768884

Court : Rajasthan

Decided On : Dec-09-2004

Reported in : 2006ACJ2497

Judge : Dalip Singh, J.

Acts : [Motor Vehicles Act, 1988](#)

Appeal No. : S.B. Civil Misc. Appeal Nos. 304 and 302 of 1991

Appellant : Harminder Singh

Respondent : Gopal Singh and ors.

Advocate for Def. : Rajendra Prasad and; Dinesh Kala, Advs.

Advocate for Pet/Ap. : Sandeep Mathur and; Vinay Mathur, Advs.

Disposition : Appeal allowed

Judgement :

Dalip Singh, J.

1. These two appeals arise out of the common award dated 21.8.1990 passed by the Motor Accidents Claims Tribunal, Jaipur (hereinafter referred to as 'the Tribunal') in Claim Petition No. 499 of 1986 filed by the appellant Harminder Singh for the compensation in respect to the injuries suffered by him and Claim Case No.

500 of 1986 was filed by the appellant Balveer Singh for compensation on account of the injuries suffered by him in an accident which took place on 12.11.1985 while travelling in car bearing registration No. MXY 1932 from Jaipur to Delhi on Jaipur-Delhi Highway nearabout Shahpura. When the said car met with an accident with a tanker (truck) bearing registration No. RNM 2995 which was alleged to have been driven rashly and negligently by Gopal Singh, respondent No. 1, as a result of the aforesaid injuries, appellants submitted the aforesaid two separate claim petitions before Tribunal.

Appeal No. 304 of 1991:

2. Appeal No. 304 of 1991 has been filed by appellant Harminder Singh for the enhancement of the amount of compensation for the injuries suffered by him.

3. The submission of learned Counsel for the appellant is that in spite of the fact that appellant suffered multiple grievous injuries and though there was evidence on record in the form of Exh. P11 and the certificate Exh. P12 and also the statement of Dr. R. Choudhary, AW 4, the Tribunal ignored the same and awarded the amount of compensation in an arbitrary manner in lump sum, i.e., Rs. 50,000 for the injuries and the disability was not taken into consideration in true perspective. It is this amount of Rs. 50,000 which the learned Counsel wants to be enhanced keeping in view the guiding principle as laid down in the Second Schedule to the [Motor Vehicles Act, 1988](#), even though the accident had occurred in the year 1985 but as per the submission of learned Counsel for the appellant, since their Lordships of the Apex Court in the case of Arati Bezbaruah v. Dy. Director General, Geological Survey of India : [2003]1SCR1229 , wherein in para 11 their Lordships have held that the provisions contained in Second Schedule to [Motor Vehicles Act, 1988](#) have proved to be a guidelines so far as the cases covered under the said Schedule are concerned and accordingly this case may also be dealt with under the provisions of the Second Schedule to [Motor Vehicles Act, 1988](#). The aforesaid submission of learned Counsel for the appellant that the provisions of the Second Schedule to the [Motor Vehicles Act, 1988](#) may be taken into consideration in the light of the judgment of the Hon'ble Apex Court is not disputed by the learned Counsel for the respondents.

4. A perusal of the provisions as contained in the Second Schedule to the [Motor Vehicles Act, 1988](#) when considered in the light of the facts of the present case, following position emerges:

(i) The age of the appellant Harminder Singh at the time of accident was 23 years and was engaged in the business of engineering/contract.

(ii) As per the certificate, Exh. P12, issued by the Chartered Accountant the income of appellant can on an average be assessed as Rs. 5,000 per month.

(iii) Since the disability as per medical evidence on record in the form of the statement of Dr. R. Choudhary, AW 4 and looking to the injury report and certificate, Exh. P14, which emerges that the appellant had suffered fracture of the vertebral column, fracture of the right forearm. There was an incised wound on the abdomen of the appellant for which he was operated upon and nearly 6' intestine had to be removed. Apart from the above, the appellant suffered minor injuries on the head and leg. Taking into consideration the fact that the appellant suffered 40 per cent permanent partial disability.

(iv) His earning capacity would be diminished by 40 per cent and loss of Rs. 2,000 per month at the rate of 40 per cent of Rs. 5,000 can safely be calculated.

5. The aforesaid loss comes to Rs. 24,000 per annum, i.e., 40 per cent of Rs. 5,000 p.m. = Rs. 2,000 x 12 = Rs. 24,000 per annum. Since the age of the appellant at the time of accident was 23 years. In such cases, as per the Second Schedule to the [Motor Vehicles Act, 1988](#), the multiplier of 17 has been prescribed for the age group of 20 to 25 years. The figure of Rs. 24,000 consequently, deserves to be multiplied by 17. On doing so, the figure so arrived at is Rs. 4,08,000.

6. Learned Counsel for the respondents submits that the amount of compensation thus arrived at is on the higher side and even in some of fatal cases, such exorbitant amount is not awarded. The aforesaid submission is not tenable on account of the fact that the injury cases are to be treated on different footings from the fatal accident cases. The quantum of compensation has to be treated on a

different footing. Since the injured suffered on account of the aforesaid injuries and suffers throughout his life on account of his discomfiture economically, physically and also socially.

7. In this view of the matter, in the case of the appellant Harminder Singh for the injuries suffered by him, the amount of Rs. 50,000 which was awarded by the Tribunal is enhanced to Rs. 4,08,000 (rupees four lakh and eight thousand only) on the basis of the provision given in the Second Schedule to the [Motor Vehicles Act, 1988](#). As the amount of Rs. 50,000 has already been paid to the appellant along with the other heads of compensation, consequently, this amount of Rs. 50,000 is liable to be reduced/deducted from the enhanced amount of Rs. 4,08,000 which comes to Rs. 3,58,000 (rupees three lakh and fifty-eight thousand only).

8. Resultantly, this appeal is allowed to the extent of Rs. 3,58,000 (rupees three lakh fifty-eight thousand). The respondents would pay by way of DD/crossed cheque or deposit the same with the Tribunal the aforesaid amount of Rs. 3,58,000 to the appellant within a period of 3 months from today. In case the respondents deposit the said amount within the stipulated period of three months same shall be paid/deposited with interest on the said amount at the rate of 6 per cent per annum w.e.f. the date of filing of the appeal, i.e., 2.1.1991. In case the aforesaid amount is not deposited or paid within the period of 3 months from today the appellant would be entitled to receive interest on the enhanced amount at the rate of 9 per cent per annum w.e.f. the date of filing of the claim petition, i.e., 9.5.1986.

Appeal No. 320 of 1991:

9. The aforesaid Appeal No. 320 of 1991 has been filed by appellant Balveer Singh for the enhancement of the amount awarded by the Tribunal for the injuries suffered by him. The appellant suffered two simple injuries; one on the chest and right side of the back and another one is a lacerated wound on the head which were simple in nature. The learned Counsel for the appellant submits that the amount of Rs. 3,250 awarded in the appeal by the Tribunal is very meagre and deserves to be enhanced.

10. From the record, it is evident that the appellant did not lead any evidence to suggest that the injuries suffered by him in any manner is grievous nor there is any evidence to suggest that on account of aforesaid injuries, appellant suffered any disability. The learned Tribunal awarded an amount of Rs. 3,000 on account of pain and suffering to the appellant. In the facts and circumstances of the present case and looking to the nature of injuries, it appears to me just and proper that the amount of Rs. 3,000 as awarded on account of pain and suffering for the two injuries including the lacerated wound on the head and injury on the chest and back which the appellant in his statement has stated was a fracture though, it was not substantiated by any medical evidence, I would allow this appeal to the extent that amount of Rs. 3,000 should be enhanced to Rs. 10,000 (rupees ten thousand). The amount of Rs. 3,000 (rupees three thousand only) as awarded to the appellant by learned Tribunal is liable to be reduced from the aforesaid enhanced amount of compensation.

11. Consequently the appeal is allowed to the extent that the appellant would be entitled to receive the enhanced amount of Rs. 7,000 (rupees seven thousand) from the respondents. Respondents would pay the enhanced amount of Rs. 7,000 (rupees seven thousand only) by way of demand draft/crossed cheque or to deposit the same with the Tribunal within a period of three months from today. The amount shall carry interest to be paid to appellant at the rate of 6 per cent per annum w.e.f. the date of filing of the appeal, i.e., 2.1.1991. In case, the respondents fail to pay or deposit the said amount within a period of 3 months, the appellant would be entitled to get the interest to be paid on the enhanced amount at the rate of 9 per cent per annum w.e.f. the date of filing of the claim petition, i.e., 9.5.1986.

12. There will be no order as to costs.