

**Ram Narayan Vs. Sitaram and ors.**

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**Court :** Rajasthan

**Decided On :** Dec-09-2004

**Reported in :** II(2005)ACC308

**Judge :** Dalip Singh, J.

**Appellant :** Ram Narayan

**Respondent :** Sitaram and ors.

**Judgement :**

**Dalip Singh, J.**

1. This appeal has been filed against the award passed by the Motor Accident Claims Tribunal, Jaipur City, Jaipur dated 18.4.1995 in Claim Case No. 223/1991 for enhancement of compensation that was awarded to the appellant by the learned Tribunal on account of the injuries suffered by him in a road accident on account of the rash and negligent driving of respondent No. 1 Sitaram, the driver of the truck bearing registration No. RRM 8919. Respondent No. 2 Anil Kumar is the owner of the truck and the vehicle was insured with respondent No. 3 Oriental Insurance Company Limited. On account of the said accident, the appellant suffered multiple injuries including fracture of the right elbow as would be evident from the; injury report (Exhibit 4) placed on the record. In all the appellant suffered three injuries. As per the Certificate (Exhibit-13), issued by Dr. MX Mathur (AW-5), the appellant suffered 8% disability on account of fracture on the right arm.

2. The learned Counsel appearing for the appellant submits that learned Tribunal has erred in awarding a meager sum of Rs. 10,000/- on account of disability caused to the right arm of the appellant. A sum of Rs. 2,000/- on account of two simple injuries, Rs. 5,000/- for grievous injuries and Rs. 3,000/- on account of hospital expenses, in total a sum of Rs. 10,000/- was awarded by the learned Tribunal. In all an award of Rs. 20,000/- was passed in favour of the appellant. Learned Counsel for the appellant submits that since it has come in the evidence that the appellant was a labourer doing manual work in the construction business and was lifting stones and other masonry materials, he has become incapacitated on account of the injuries and consequent disability being unable to lift any heavy item and, in fact, 8% disability amounts to 100% disability in his case. Learned Counsel for the appellant further submits that even assuming that it was 8% disability and the income of the appellant was Rs. 50/- per day and if the same would be calculated, then the monthly income of the appellant comes to Rs. 1,500/-. Therefore, in such situation the annual income would be Rs. 18,000/-. Learned Counsel for the appellant submits that the age of the appellant at the time of accident was 44 years, and in accordance with the provisions of II Schedule appended to the Motor Vehicles Act, 1988, the multiplier of 15 would be required to be taken. Therefore, by adopting the multiplier of 15 to the annual income of Rs. 18,000/- the amount comes to Rs. 2,70,000/-. Having arrived at the aforesaid figure, since the disability certificate shows 8% disability, for determining the loss of income the amount of 8% from Rs. 2,70,000/- would be the amount of compensation liable to be paid to the appellant which comes to Rs. 21,600/-.

3. Learned Counsel for the respondents does not dispute the aforesaid position. Therefore, taking into account the entire facts and circumstances of this case as well as considering the provisions of II Schedule to the Motor Vehicles Act, 1988, I am inclined to award an amount Rs. 21,600/- (Rs. twenty one thousand six hundred only) to the appellant in place of Rs. 10,000/- as awarded by the Tribunal on account of disability. Since an amount of Rs. 10,000/- has already been paid, the appellant would be entitled to enhance the compensation of Rs. 11,600/-.

4. Consequently, this appeal is allowed. The respondents are directed to pay or deposit the aforesaid amount of Rs. 11,600/- to the appellant-claimant by way of

demand draft/crossed cheque or deposit the same with the learned Tribunal within a period of three months from today. In case, the said amount of Rs. 11,600/- is paid or deposited by the respondents within a period of three months, the same shall be paid to the appellant at the rate of 6% per annum w.e.f. the date of filing of this appeal i.e., 3.7.1995. However, in case, the respondents fail to pay or deposit the aforesaid amount within a period of three months, the appellant would be entitled to recover the same with interest at the rate of 9% per annum w.e.f. the date of filing of the claim petition i.e., 21.12.1990.

5. There shall be no order as to costs.

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