

Gopal Lal Vs. Bhanwar Lal

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Court : Rajasthan

Decided On : Aug-25-2009

Reported in : 2009(3)WLN520

Judge : Guman Singh, J.

Appellant : Gopal Lal

Respondent : Bhanwar Lal

Judgement :

Guman Singh, J.

1. Heard learned Counsel for the parties.
2. This appeal has been preferred on behalf of injured-appellant Gopal Lal for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Jaipur city, Jaipur vide judgment dt. 24.02.1996 whereby a sum of Rs. 1,01,500/- was awarded by way of compensation for 50% disability caused on account of injuries sustained in the accident.
3. The challenge in the appeal pertains to quantum of compensation only.
4. Learned Counsel for the appellant submits that the learned Tribunal has awarded compensation by way of lump sum while the amount deserves to be computed by adopting second schedule to the M.V. Act to be the guideline

commensurating with the percentage of disability. It is also submitted that on account of serious injuries on head and on body, the injured sustained paralysis attack and sustained disability in both hands and legs to the extent of 50% and thereby he has been rendered jobless. It is also submitted that injured is a young bachelor and he has to face mental pain and agony and has to carry on his disability through out his life and his social life has been curtailed and he has to face social indignation and, as such, sufficient amount deserves to be awarded for mental pain and agony. It is further submitted that multiplier as per latest judgment of Hon'ble apex Court reported in : 2009(6) SCC 121 (Sarla Verma and Anr. v. DTC and Ors.) may be adopted.

5. Per contra, learned Counsel for the respondents supported the judgment of the Tribunal and submitted that the learned Tribunal has taken into consideration evidence adduced during inquiry and has awarded adequate compensation and calls for no interference. It is further submitted that multiplier of 16 should have been adopted.

6. On hearing rival contentions, and going through the award as also record of the case, it is revealed that the learned Tribunal has awarded sum of Rs. 1,01,500/- by way of lump sum while the amount deserves to be awarded by adopting second schedule to the M.V. Act to be the guideline commensurating with the percentage of disability. As submitted by learned Counsel for the appellant, multiplier of 18 deserves to be adopted in view of judgement of Hon'ble Apex Court in Sarla Verma's case (supra) wherein after considering various judgements of Apex Court as well as second schedule to the M.V. Act, guidelines have been provided to achieve uniformity in judgment making process by all Tribunals and Courts. That apart, injured has sustained extensive injury on account of paralysis and he has sustained disability in both hands and legs to the extent of 50% and has to carry on his disability through out his life and, as such, a sum of Rs. 50,000/- deserves to be awarded for mental pain and agony. That apart, injured has sustained head injury requiring 40 stiches and due to paralysis on almost half of the body, he remained hospitalized and immobilized for six months, as such, a sum of Rs. 1200/- per month deserves to be awarded amounting Rs. 7200/-. Thus amount of compensation can be computed as under:

Rs. 1200(monthly earning)x12x18(multiplier)x50%(disability)= Rs. 1,29,600+Rs. 50,000/- (for pain and agony)+Rs.7200/-(for six months immobilization)= Rs. 1,86,800- (minus)Rs. 1,00,000 (already awarded)= Rs. 86,800/-(to be additionally awarded).

7. Accordingly, appeal of the injured-appellant is partly allowed and the Award passed by the learned Tribunal is modified to the extent that the injured-appellant shall get a sum of Rs. 86,800/- by way of additional enhanced compensation from the date of appeal i.e. 01.07.1996, with 6% interest to be paid within three months. Thereafter interest shall be paid @ 9% per annum. The rest of the terms of award shall remain unchanged. Record be sent forthwith.

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