

Net Ram Vs. Ramesh Chandra and ors.

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Court : Rajasthan

Decided On : Oct-19-2005

Reported in : II(2006)ACC194; 2006WLC(Raj)UC29

Judge : R.S. Chauhan, J.

Appellant : Net Ram

Respondent : Ramesh Chandra and ors.

Advocate for Pet/Ap. : Mr. K.N. Tewari

Judgement :

R.S. Chauhan, J.

1. In middle of the night on 23.10.1987, when the appellant was riding his scooter, he met with an accident with a 'tempo'. His hand and his right knee were badly fractured. According to the disability certificate, the appellant had suffered 35% permanent disability. Consequently, he had filed a claim petition before the Motor Accident Claims Tribunal, Jaipur City, Jaipur (henceforth referred to as 'The Tribunal') for compensation to the tune of Rs. 2,26,000. However, vide award dated 12.9.1994, the learned Tribunal was pleased to award a compensation of Rs. 45,000 only. Hence, this appeal before us for enhancement.

2. Mr. K.N. Tewari, learned Counsel for the appellant has contended that instead of giving a specific compensation for different categories of non-pecuniary loss such as 'pain and agony', 'loss of future prospects', etc., the learned Tribunal has granted a lumpsum of Rs. 45,000. Therefore, the learned Tribunal has committed an error.

3. On the other hand, Mr. D.K. Sharma, learned Counsel appearing on behalf of the Insurance Company, has vehemently argued that the accident took place on 23.10.1987 and the award was passed on 12.9.1994. According to him the amount of Rs. 45,000 was just and proper in the year 1994. Hence, he has supported the impugned award.

4. A bare perusal of the impugned award reveals that the learned Tribunal has awarded Rs. 12,300 for the period of leave which the claimant was required to take for the purpose of getting himself properly treated. It has also granted Rs. 15,000 for the grievous injuries and Rs. 8,000 for the simple one. It has also directed a compensation of Rs. 10,000 for the loss of future prospects suffered by the claimant. However, it has neither granted any amount 'for the medical treatment undergone' by the claimant nor for 'the pain and agony' suffered by him. According to A.W. 5 Dr. Mukul Sharma, the claimant would have difficulty in a properly walking and also in climbing the stair-cases. One cannot also overlook the fact that the realigned bones would cause life-long pain to the claimant during the winter and rainy seasons. Therefore, even though, the accident had occurred in the year 1987, but the claimant continues to suffer the consequences even today. This Court in the case of Shyam Ratan v. Jawahar Lal and Ors. Civil Misc. Appeal No. 859/1990 decided on 13.12.2001) also dealt with the case of multiple fracture where the permanent disability was only to the extent of the 19.84%. In the said case, the learned Tribunal had awarded a sum of Rs. 48,760. However, this Court enhanced the amount of compensation to Rs. 1,50,000. Similar view has also been taken in the case of Bheem Singh v. Vimal Kumar Gaur and Ors. Civil Misc. Appeal No. 100/1996 decided on 24.11.1997) wherein the claimant had suffered a permanent disability of 14% of the lower limb. This Court has held as under:

It cannot be disputed that because of accident, the appellant has become a life long handicapped to the extent of 14% of the lower limb. No amount of compensation can restore the physical frame of the appellant. Therefore, whenever any amount is determined as the compensation payable for any injury suffered during an accident, the object is to compensate such injury so far as money can compensate because it is impossible to equate the money with human suffering or personal deprivation. Money cannot renew a broken and shattered physical frame. Determination of the amount of compensation in the cases of accident involves some guesswork, some hypothetical consideration, some amount of sympathy linked with the nature of disability caused. The appellant has, therefore, to be awarded as damages which will be spread over expenditure incurred, etc. and non-pecuniary shock, pain and suffering already suffered or likely to be suffered in future, loss of amenities of life and inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.

5. Therefore, in that case, this Court was pleased to enhance the amount of compensation from Rs. 45,000 to Rs. 1,10,000. In light of the case law cited at the Bar, and for reasons stated above, we also allow this appeal and enhance the amount of compensation from Rs. 45,000 to Rs. 1,10,000. To this extent the award is modified. However, the rest of the terms and conditions as mentioned in the award are maintained.