

Mukesh Yadav Vs. Ashok and Others

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Court : Chhattisgarh

Decided On : Apr-13-2011

Judge : R.N. Chandrakar

Appeal No. : Misc Appel C No 848 of 2007

Appellant : Mukesh Yadav

Respondent : Ashok and Others

Judgement :

(Appeal under Section 173 of the Motor Vehicles Act)

1. Appellant/claimant Mukesh Yadav is seeking enhancement of the compensation awarded by the First Additional Motor Accident Claims Tribunal, Rajnandgaon (for short the `Tribunal') vide award dated 19-03-2007, passed in Claim Case No. 128 of 2005.

2. As against the compensation of Rs.3,16,000/- claimed by the appellant/claimant by filing a claim petition under Section 166 of the Motor Vehicles Act, for the injuries sustained by him in the motor accident on 15-4-2005, the Tribunal awarded a total sum of Rs.1,78,000/- as compensation along with interest @ 6% per annum for the date of filing of the claim petition till the date of actual payment.

3. Shri Rakesh Sahu, learned counsel appearing for the appellant vehemently argued that the Tribunal has erred in awarding low compensation of Rs.1,78,000/- only though the appellant/claimant sustained serious injuries including fractures in the motor accident resulting in permanent disability.

4. On the other hand, Shri Raj Awasthy, learned counsel appearing for respondent No.3 - The New India Insurance Company Limited, contended that the Tribunal has awarded excessive sum of Rs.1,78,000/- as compensation to the claimant.

5. In a motor accident claim case, what is important is that the compensation to be awarded by the Courts/Tribunals should be just and proper compensation in the facts and circumstances of the case. It should neither be a meager amount of compensation nor a Bonanza.

6. Now I shall examine as to whether the compensation of Rs.1,78,000/- awarded by the Tribunal is just and proper compensation in the facts and circumstances of the present case.

7. Appellant/claimant Mukesh Yadav aged about 12 years on the date of accident was working as labourer in "Dhaba" and was earning Rs.50/- per day. The unfortunate accident wherein the claimant claims to have sustained injuries and fractures, took place in the year 2005. Appellant/claimant Mukesh Yadav (AW/1) has stated in his statement that he was earning Rs.50/- per day by working as labourer in Dhaba. He has also stated in his statement that Sonu is the owner of the aforesaid Dhaba, but he has not been examined in this case.

8. After going through the record, it is clear that Doctor V.S. Baghel has been examined in this case as medical witness and has issued disability certificate (Ex.P/13) which is not proper as the same should be issued by the Medical Board and the Doctor V.S. Baghel, who has issued disability certificate, is neither a member nor chair-person of the Medical Board. Therefore, the disability certificate issued by Doctor V.S. Baghel is not proper and the same cannot be considered in this case.

9. The Tribunal has awarded Rs.40,000/- towards medical expenses, special diet and conveyance; Rs. 14,400/- towards loss of earning for 16 months; Rs.20,000/- towards pain and suffering; Rs.54,000/-towards loss of permanent disability and Rs.50,000/- towards loss of income on account of permanent disability and the Tribunal has awarded a total sum of Rs.1,78,000/- as compensation to the appellant/claimant. The compensation of Rs.1,78,000/- awarded by the Tribunal when examined in the context of the above mentioned broad features of the case, in my opinion, cannot be termed as inadequate so as to warrant enhancement in this appeal.

10. Considering all the facts and circumstances of the case, I do not find any scope for enhancement of the compensation, Accordingly, the appeal filed by the appellant/claimant is liable to be dismissed and is hereby dismissed.

11. No order as to costs.