

Syed Mehaboob vs The New India Assurance Ltd on 7 February, 2011

Equivalent citations: AIRONLINE 2011 SC 391

Bench: Asok Kumar Ganguly, G.S. Singhvi

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1441 OF 2011
(Arising out of Special Leave Petition(C) No.5148/2010)

Syed Mehaboob

...Appellant(s)

VERSUS

The New India Assurance Co. Ltd.

...Respondent(s)

J U D G M E N T

GANGULY, J.

1. Leave granted.

2. The appellant-claimant was a driver-cum-cleaner of lorry bearing No. HR 38 F 8781 and the same was stopped in front of WIPRO company at Ring Road on 31.12.2001, when at about 9 a.m., driver of the lorry bearing No. TN 34 A 2994 dashed against the appellant. The appellant sustained multiple injuries and was rushed to Sanjay Gandhi Hospital and then to Victoria Hospital.

3. The appellant filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 claiming Rs.4 lacs as compensation.

4. The Motor Accident Claims Tribunal (MACT) concluded that the accident occurred due to

actionable negligence of the lorry driver bearing No. TN 34 A 2994 as a result of which the appellant sustained injuries.

5. Before the MACT, it was found that the appellant sustained compound type 3-A fracture of left femur, compound type-2 supracondylar fracture of left femur and fractured right pubic bone for which he had to undergo operation and treatment in the hospital. The doctor assessed permanent disability of 86% to the left lower limb and 43% to the whole body. As a result of the injuries, the appellant was unable to walk, sit or stand without support and his left lower limb was shortened by 2.5 inches and, therefore, was incapable of driving any type of vehicle. Since the appellant was unable to use both his legs for driving, it would affect his occupation as a driver to a great extent. The MACT, in calculating compensation, considered the principle that while assessing the economic and functional disability what is to be looked into is the occupation of the appellant and the extent to which the physical disability sustained by the appellant would affect his earning capacity. Accordingly, on taking into consideration the nature of disabilities suffered with reference to the avocation of the appellant, it estimated the functional loss of future earning capacity of the appellant at 100%.

6. The appellant had claimed that he was earning Rs.5000-6000/-

p.m. However, the same was unsubstantiated by material evidence. Hence, the Tribunal estimated the daily earnings of the appellant at Rs.80/- and monthly earnings at Rs.2400/-. At the time of the accident, the appellant was 28 years old. Thus, the Tribunal adopted a multiplier of 16. Accordingly, loss of future earnings of the appellant was calculated at $\text{Rs.}2400 \times 12 \times 16 = \text{Rs.}4,60,800/-$. Tribunal awarded compensation as follows:

Loss of future earnings - Rs.4,60,800/-

Injury, pain and suffering - Rs.40,000/- Loss of amenities and enjoyment in life - Rs.30,000/-

Medical expenses - Rs.25,000/-

Loss of earning during treatment - Rs.12,000/-

(for 5 months)

Conveyance and nourishment - Rs.10,000/-

TOTAL - Rs.5,77,800/-

7. The Tribunal held that the owner of the vehicle and the insurance company were jointly and severally liable to pay Rs.5,77,800/- as compensation to the appellant,

along with interest @ 8% from the date of the petition till realization.

8. Aggrieved by the compensation granted by the Tribunal, the insurance company appealed to the High Court of Karnataka contending that the compensation so awarded was arbitrary and unreasonable.

9. The High Court assessed total bodily disability at 30% and assessed his income at Rs.3000/- p.m. and held that the income proportionate to the disability was Rs.1000/- p.m. On re-appreciation of facts and evidence, the High Court held that the appellant was entitled to a reduced compensation as follows:

Pain and agony - Rs.50,000/-

Loss of amenities and future discomfort - Rs.30,000/-

Loss of income during laid up period - Rs.18,000/- Loss of income on account of disability - Rs.1,92,000/- (Rs.1000 X 12 X 16) Medical and incidental expenses - Rs.30,000/-

TOTAL - Rs.3,20,000/-

10. The High Court, in passing its award, has virtually given no reasons for reducing the compensation awarded by the Tribunal to the appellant.

11. We are of the opinion that the award of the Tribunal is well-

considered and well-reasoned and the compensation so computed by it is just and equitable. On the other hand, the High Court has reduced the compensation without any justification. It is a well-settled principle of law that a court has duty to give reasons as its judgment affects the rights and obligations of the litigating parties, who are entitled to know why the court came to its decision.

12. This duty to give reasons is even more necessary when the High Court disagrees with the judgment of a lower court and sets it aside.

13. The Motor Vehicles Act of 1988 is a beneficent legislation intended to place the claimant in the same position that he was before the accident and to compensate him for his loss. Thus, it should be interpreted liberally so as to achieve the maximum benefit.

14. We have been through the award of the Tribunal and are satisfied that the award of compensation is not arbitrary, unreasonable or excessive. It is passed after taking into consideration relevant factors and in the facts and circumstances of the case it is correct. The reduction in compensation by the High Court is in fact arbitrary and thus, we set aside the judgment of the High Court.

15. Compensation shall be payable to the appellant as per the award of the Tribunal.

16. Accordingly, the appeal is allowed.

17. No order as to costs.

.....J.
(G.S. SINGHVI)

New Delhi
February 07, 2011

.....J.
(ASOK KUMAR GANGULY)