

Madhya Pradesh High Court

General Manager, M.P.S.R.T.C. ... vs Sujanmal Jain on 18 October, 2000

Equivalent citations: I (2001) ACC 729

Author: S Singh

Bench: R Vyas, S Singh

JUDGMENT Shambhoo Singh, J.

1. This appeal is directed by non-applicants against the award dated 26.11.1994 passed by the IInd Addl. Member, MACT Neemuch in Claim Case No. 39/199.

2. The case of the claimant/respondent was that in the night intervening 29th and 30th November, 1991 he was travelling in bus No. M.P. 09D-3200 belonging to the appellant Madhya Pradesh State Road Transport Corporation (for short 'the Corporation') and driven by appellant No. 2. The appellant No. 2 drove the bus in rash and negligent manner near Sagar-Gram, as a result of which it fell down from the bridge wherein the respondent aged about 56 years, sustained fracture of pelvis left hip bone and injuries on other parts of the body. He was admitted in Neemuch Hospital and thereafter was brought to District Hospital, Ratlam and from there he was shifted to M.Y. Hospital, Indore where he was operated. He suffered fracture and dislocation of central hip and fracture of floor of right acetabulum of hip bone. There was mal-union of femur neck and acetabulum. There was shortening of 2 cm. of lower limb. All the movements at left hip were restricted. He could not sit on squat and stand continuously for half an hour and could not walk without stick. He suffered 50% permanent disability vide Ex. P18. He needed help of a servant throughout his life. He is an Advocate and is not in a position to carry on his profession. His capacity to earn has been reduced. He filed claim case and sought compensation of Rs. 6,78,000/-. The respondents contested the claim. The learned Tribunal on appreciation of evidence held that the accident occurred due to rash and negligent driving of the bus by the driver, as a result of which the claimant sustained permanent disability of his hip bone and awarded compensation of Rs. 82,000/-. The Corporation has filed this appeal for setting aside the award and the claimant filed cross-objections for enhancement of compensation amount.

3. Mr. S.S. Kemkar, learned G.A. for the appellants, submitted that the learned Tribunal committed error in awarding compensation of Rs. 82,000/-. His earning capacity had not been affected. He, therefore, prays for reduction of the compensation amount. Mr. Baraniya, learned Counsel prayed for enhancement of award amount.

4 We considered the arguments advanced by learned Counsel for both sides and went through the evidence on record. It has come in the evidence of Sujanmal (A.W. 1) and Goverdhanlal (A.W. 6) that they were travelling in the bus of M.P.S.R.T.C. The driver drove the bus at an excessive speed, as a result of which it fell down from the bridge wherein the claimant suffered injuries on hip and legs. The driver, Jaipalsingh (N.A.W. 1) stated that he was driving the bus at a moderate speed, a truck came from opposite direction and hit the bus, as a result of which the bus fell down from the bridge. The evidence of Jaipalsingh is not believable. The non-applicants did not plead this fact in their written statement. It is, thus, clear that it is an after-thought story. From the evidence of the appellant and his witness, it is proved that the accident occurred due to rash and negligent driving of

the bus. It has come in the evidence of Sujanmal that he sustained fracture of hip bone, his both hip bones were separated and head of femur of left leg was crushed. His left leg was fractured and he could not work properly. He could not sit on ground as his leg did not bend. His left leg was shortened by 2 cm. Dr. R.S. Tolaram examined him. He found that claimant was suffering from fracture of pelvis bone, his left leg was fractured and there was central dislocation of left hip joint and on right side acetabulum vide his report Ex. P7. He found that the claimant had become permanently disabled and he could not sit across-legged and he could not move and his hip joint had become abnormal, he will suffer it throughout his life. This witness was cross-examined but nothing could be brought which may establish him unreliable witness. From the above evidence, it is proved that the claimant suffered injuries and sustained fracture of hip bone and pelvis bone. His disability was assessed at 50%.

5. The Tribunal considered the evidence of these witnesses and keeping in view the medical bills, awarded Rs. 10,000/- for treatment and rich diet, Rs. 10,000/- for physical and mental agony, Rs. 10,000/- for loss of income for four months at the rate of Rs. 2,500/- per month, Rs. 5,000/- for loss of future income and Rs. 5,000/- for servant. It has come in the evidence of claimant Sujanmal, his daughter Meenakshi and Goverdhanlal that the claimant was not in a position to do his daily routine work. Basantilal was engaged as servant on the pay of Rs. 500/- per month. The claimant filed receipts Exs. P22 to P27 given by Basantilal. Basantilal has supported this evidence. The Tribunal awarded Rs. 500/- for servant and in all Rs. 82,000/-.

6. We considered the cross-objections filed by the claimant. In our opinion, in view of the fact that the appellant suffered 50% permanent disability and he was not in a position to walk and sit on ground. His leg remained straight and did not bend. He could not walk by himself. He had to pass stool and urine standing. He took treatment at Neemuch, Ratlam and at M.Y. Hospital, Indore. Under such circumstances, in our opinion, the amount of Rs. 10,000/- for mental and physical agony is insufficient. We enhance this amount to Rs. 20,000/-. The appellant needs the help of a servant, The Tribunal awarded only Rs. 5,000/- in this regard. The claimant is 56 years old Advocate and he has become permanently disabled. He would require services of a servant for whole life. We, therefore, allow Rs. 30,000/- in this head. Thus, cross-objections are allowed and the amount of compensation is enhanced to Rs. 1,12,000/-.

7. In the result, the appeal filed by the Corporation is dismissed. The cross-objections filed by the claimant are allowed and it is directed that the appellant Corporation shall pay Rs. 1,12,000/- with interest at the rate of 12% per annum from the date of filing of claim application till realisation to the claimant (after adjusting the amount already deposited) within the period of three months from the date of receipt of copy of this judgment. There shall be no order as to costs.