

Supreme Court of India

Dinesh Singh vs Bajaj Allianz Genl. Insurance ... on 23 April, 1948

Author: N Ramana

Bench: P Sathasivam, Ranjan Gogoi, N.V. Ramana

NON - REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 8215 – 8216 OF 2009

DINESH SINGH

... APPELLANT

VERSUS

BAJAJ ALLIANZ GENERAL
INSURANCE CO LTD.

... RESPONDENTS

JUDGMENT

N.V. RAMANA, J.

These appeals by special leave are directed against the Judgment passed by the High Court of Karnataka, Circuit Bench at Dharwad in M.F.A. No. 4502 of 2007 C/W. M.F.A. No. 3293 of 2007.

2. The appellant is the claimant. He filed claim petition being M.V.C. No. 515 of 2004 before the Motor Accidents Claims Tribunal, Hubli, stating that he is B.E. Degree holder in Metallurgy. He is aged 24 years and was working as Quality Engineer in Hospet Steels Ltd. On 13.04.2004 while he was returning to his home from the company he met with an accident. In the accident, he sustained grievous and fracture injuries to the knee and also left hand. He was taken to a hospital in Hubli for treatment, where his left leg was amputated. He was in the said hospital as an inpatient till June, 2004. Thereafter, he took treatment at Tulasidas Gopalji Charitable and Dhakleswar Temple Trust and All India Institute of Physical Medicine and Rehabilitation, Bombay and he is still under treatment and presently walking with the assistance of an artificial limb.

3. According to him, due to amputation of his left leg, he suffered 100% permanent disability. At the time of accident, he was getting monthly salary of Rs.17,200/- as an Engineer. Because of the disability, he had to resign his job as an Engineer and take up a desk job in Industrial Development Bank of India. Being a bachelor, he has lost prospects of getting married. He thus laid the claim for a total compensation of Rs.40,75,000/- under different heads for the injuries sustained by him.

4. The respondent resisted the claim of the appellant. The Tribunal considering the evidence placed by the appellant, both oral and documentary, awarded in all Rs.30,60,160/- as compensation to the appellant under different heads. Against the said award, both the appellant as well as the

respondent filed appeals before the High Court of Karnataka, the appellant seeking enhancement, while the respondent for reduction. The High Court dismissed the appeal filed by the appellant and partly allowed the appeal filed by the respondent and reduced the compensation awarded by the Tribunal from Rs.30,60,160/- to Rs. 6,32,000/-.

5. The learned counsel for the appellant submitted that the appellant at the time of accident, was a young boy of 24 years age and was unmarried. He completed his Engineering in Metallurgy and was working in a private company as Quality Engineer and was getting Rs.17,200/- p.m. The appellant is very intelligent, and because of amputation of his left leg above the knee, he suffered more than 80% permanent disability, and his future became very bleak. The appellant had to resign his job as an Engineer and take up a desk job in a private Bank, which he may lose due to recession in the economy. However, the High Court has without any valid and proper reason, without considering the above facts and without appreciating the evidence properly, has drastically reduced the just and reasonable compensation awarded by the Tribunal. He thus prayed that in the facts and circumstances of the case, just and reasonable compensation be granted to the appellant.

6. On the other hand, the learned counsel for the respondent supported the judgment of the High Court insofar as it reduced the compensation awarded by the Tribunal, and further contended that the reduced compensation awarded by the High Court being just and reasonable in the facts and circumstances of the case, needs no further enhancement.

7. Heard the learned counsel for the appellant and the learned counsel for the respondent.

8. The fact that the appellant suffered injuries in the accident is not in dispute. It is also not in dispute that the appellant is B.E. Degree holder in Metallurgy and was working as Quality Engineer in Hospet Steels Ltd. Though the appellant contended that at the time of accident he was earning Rs.17,200/- per month, but in the absence of any document produced by the appellant to prove the same, the Tribunal as well as the High Court, took the monthly salary of the appellant at Rs.12,840/- as evidenced by Ex.P35, and we do not find any error with the said income taken by the Tribunal and the High Court. The appellant due to the injuries sustained by him, undisputedly, was out of employment for a period of two years. However, the High Court committed an error in holding that the appellant was out of employment for only six months. As the appellant was out of employment for a period of two years (24 months), his loss of earnings for the said period would be Rs.12,840/- x 24 = Rs.3,08160/-, which the Tribunal has rightly awarded.

9. The Tribunal taking into consideration the monthly salary of the appellant at Rs.12,840/- and considering his young age at 24, applied the multiplier 17 and having regard to the 60% permanent disability suffered by him, arrived the compensation towards future loss of earnings at Rs.15,72,000/-. However, while agreeing that the appellant that as per Schedule I of the Workmen's Compensation Act, he suffered 80% permanent disability, taking into consideration the subsequent employment of the appellant in Industrial Development Bank of India as a Grade-B Officer, held that the appellant did not suffer any loss of future earnings on account of his permanent disability, and accordingly, disallowed the claim of the appellant under the head 'loss of earnings'.

10. We have considered the material placed before us, particularly the evidence of the Doctor, who stated that the appellant suffered 60% disability of the total body, and in his cross-examination denied the suggestion that the appellant does not require any further treatment. The fact that the appellant has resigned as Quality Engineer from Hospet Steels Ltd and took up desk job in Industrial Development Bank of India because of his permanent disability, suffered by him in the accident is not in dispute. Obviously, because of the permanent disability suffered by the appellant, who is an Engineer by profession, cannot take up such profession, which requires moving from one place to other place. Therefore, the reasoning of the High Court that the appellant has not suffered any financial loss because of permanent disability having regard to the fact that subsequently he took up employment in Industrial Development Bank of India as Grade-B Officer, cannot be sustained. Once the permanent disability is fixed, taking into consideration, its impact on the employment/profession of the claimant, the compensation has to be awarded. Since the disability suffered by the appellant, which is fixed at 60% and which is permanent in nature, impacted his employment and future prospects, we are of the considered opinion that the Tribunal has rightly determined the compensation Rs.12,840/- x 12 x 17 = Rs.26,19,360/- towards loss of future earnings, and taking into consideration the 60% permanent disability suffered by the appellant, awarded him the actual compensation under the head 'loss of future earnings' at Rs.15,71,616/- by rounding off the same to Rs.15,72,000/-.

11. The appellant, admittedly, was in hospital as an inpatient for a long time. He was operated upon for two times, and presently he is able to move with the assistance of an artificial limb, and he still has to take treatment, as is evident from the evidence of the Doctor, and considering the fact that loss of limb causes lot of pain to any living being, we are of the considered opinion that compensation payable to the appellant under the head 'pain and agony', should be reasonable. The Tribunal has awarded Rs. 70,000/-, and we feel it appropriate to enhance by another Rs.50,000/-, and upon such enhancement, the appellant would be entitled to Rs.1,20,000/- under the head 'pain and agony'. Therefore, we hold that the High Court erred in reducing the compensation payable to the appellant under the head "pain and agony".

12. The compensation payable to the appellant under the heads 'loss of amenities' and 'loss of marriage prospects', also requires enhancement. The Tribunal has awarded Rs.2,50,000/- under the head 'loss of amenities'. We feel it appropriate to enhance the same by another Rs.1,00,000/-. Upon such enhancement, the appellant would be entitled to Rs.3,50,000/- under the head 'loss of amenities of life'.

13. The Tribunal awarded Rs.50,000/- towards 'loss of marriage prospects'. We feel it appropriate to enhance the same by another Rs.50,000/-, and on such enhancement, the appellant would be entitled to Rs.1,00,000/- under the head 'loss of marriage prospects'.

14. The Tribunal has awarded Rs.5,00,000/- towards future medical expenses. Considering the fact that the appellant still requires treatment and has to change his artificial limb as and when required, we are of the considered opinion that the compensation under the said head needs enhancement, and accordingly, we enhance the same by another Rs.50,000/-. The appellant therefore, would be entitled to Rs.5,50,000/-.

15. In view of the evidence produced by the appellant that he has spent about Rs.3,10,000/- towards medical expenditure, including conveyance and attendance fee, for the period he was under treatment, we are of the opinion that the same needs to be granted, and accordingly, we grant the same as awarded by the Tribunal, and find fault with the High Court in reducing the same.

16. Thus, in all, we hold that the appellant is entitled to compensation of Rs. 33,10,160/- as under:

| | | | |
|----|---|-----------------|--|
| 1. | Pain and Agony | Rs.1,20,000/- | |
| 2. | Medical expenditure, including | Rs.3,10,000/- | |
| | conveyance, attendant fee etc (During | | |
| | the period of treatment | | |
| 3. | | Rs.3,08,160/- | |
| | Loss of income during | | |
| | hospitalization/treatment | | |
| | Loss of future income | Rs.15,72,000/- | |
| 4. | | | |
| | Loss of happiness and loss of amenities | Rs.3,50,000/- | |
| 5. | | | |
| 6. | Loss of marriage prospects | Rs.1,00,000/- | |
| 7. | Future medical expenses | Rs.5,50,000/- | |
| | IN TOTAL | | |
| | | | |
| | | Rs. 33,10,160/- | |

17. The above compensation amount shall carry interest @ 6% p.a. from the date of filing of the petition before the Tribunal till the date of payment,

18. Accordingly, we set aside the judgment of the High Court and allow the appeals in the above terms with no order as to costs.

.....CJI.

(P. SATHASIVAM)J.

(RANJAN GOGOI)J.

(N.V. RAMANA) NEW DELHI, APRIL 23 , 2014
