



Product S.No.550985300

Judgment located by a hyperlink.

Ankush v. Hanmanta, (SC) : Law Finder Doc Id # 863857

[2017\(3\) R.C.R.\(Civil\) 344 : 2017\(3\) Recent Apex Judgments \(R.A.J.\) 592](#)

SUPREME COURT OF INDIA

Before:- A.K. Sikri and Ashok Bhushan, JJ.

Civil Appeal No. 4707 of 2017 (Arising out of S.L.P.(Civil) No. 28773 of 2016). D/d. 30.3.2017.

Ankush - Appellants

Versus

Hanmanta & Ors. - Respondents

For the Appellants :- Shashibhushan P. Adgaonkar, Advocate.

VERY IMPORTANT

A victim of motor accident can be granted Compensation more than what he claimed if he was found entitled to in law.

A. Motor Vehicles Act, 1988, Section 166 - Motor accident - Claim petition filed by victim - Supreme Court under Article 132 of Constitution can grant compensation more than amount claimed by victim what is found to be due in law - 2015(1) RCR (Civil) 828 : 2015(1) Recent Apex Judgments (RAJ) 465 Relied.

[Para 5]

B. Motor Vehicles Act, 1988, Section 166 - Motor accident due to negligence of driver of a truck - Victim (a labourer) suffered 60% permanent disability due to loss of right hand - Along with other heads of compensation victim is also entitled to compensation towards loss of future prospects and medical expenses and loss of amenities - In the case the victim who was a labourer and learning ₹ 21,000/- granted following compensation under said heads:

- (1) Loss of future prospectus ₹ 1.50 lakhs.**
- (2) Medical expenses ₹ 20,000/-.**
- (3) Pain and sufferings ₹ 50,000/-.**
- (4) Loss of amenities ₹ 50,000/-.**

[Paras 3, 4 and 5]

Cases Referred :

ORDER

Nobody has appeared on behalf of the respondents, including the Insurance Company (respondent No.6), in spite of service of notice. In these circumstances, we have no option but to proceed ex-parte in the matter.

Leave granted.

2. We have heard learned counsel for the appellant and gone through the record. The appellant is a labourer who met with an accident on 18.04.1999 while he was travelling by tractor and trolley bearing No.MH-24-A-6176 and MH-24-A-0218 respectively on Latur - Nanded road from Chikalana village, when a truck bearing No.MH-12-6454 came from behind and rammed into the tractor and trolley in which the appellant was travelling. As a result, the accident occurred and the appellant sustained multiple injuries and he was admitted to Civil Hospital, Latur for medical treatment. The appellant filed the case of compensation under the Motor Vehicles Act before the Motor Accident Claims Tribunal claiming compensation of ₹ 3 lakhs. The Evidence was led by both the parties. The Motor Accident Claims Tribunal on analysing the evidence before it came to the conclusion that the accident took place because of the rash and negligent driving by the driver of the truck as a result of which the appellant had sustained various injuries. The Tribunal also arrived at the conclusion that the income of the appellant was ₹ 21,600/- per annum and by applying multiplier of 18 for loss of income, arrived at a figure of ₹ 2,33,200/- and 60% thereof as the compensation on the ground that disability was 60% and not 100%. In this manner a sum of ₹ 1,72,800/- with interest of 9% from the date of the petition till realization of the amount in full was awarded to the appellant. After addition of the interest, total sum of ₹ 2,33,200/- was awarded by the Tribunal.

3. Not satisfied with the aforesaid amount of compensation, the appellant preferred an appeal before the High Court. The High Court accepted the finding of the Trial Court that the annual income of the appellant was ₹ 21,600/-, multiplier of 18 was applicable and disability was 60%. Thus award for loss of income in the sum of ₹ 1,72,800/- is maintained. The High Court, however, found that while awarding the amount, no amount towards pains and suffering is awarded nor any amount is awarded towards loss of future prospects and medical expenses. Accordingly, the High Court has awarded a sum of ₹ 20,000/- by way of medical expenses and ₹ 50,000/- towards pains and sufferings and with the addition of further sum of ₹ 50,000/- towards loss of amenities. In the manner, total compensation to the appellant is worked out at ₹ 3,53,200/- with interest @ 9% per annum from the date of petition till realization.

4. Being dissatisfied, the appellant has filed the instant appeal. The counsel for the appellant submitted that though the appellant had suffered 60% disability resulting into loss of right hand, no amount towards loss of future prospects has been awarded by the courts below. Learned counsel for the appellant is right in his submission. Once we find that there was a permanent disability to the extent of 60% and there is a loss of right hand of the appellant, it is definitely going to affect future prospects of the appellant.

5. We are of the opinion that the ends of justice would be sub-served by giving a consolidated sum of ₹ 1,50,000/- towards loss of future prospects. We are conscious of the fact that the appellant in his petition before the Motor Accident Claims Tribunal was given only an amount of ₹ 3 lakhs. However, in a case like this where the compensation is to be given to the appellant for suffering the accident due to the fault of the driver of the truck and which has resulted in permanent disability to the extent of 60%, we are of

the opinion that whatever amount that is legitimately due to the appellant in law should be paid to him and this Court can exercise such power by granting more amount than what he claimed once that amount is found to be due and legitimately payable to the appellant under Article 132 of the Constitution. This was the course of action which was followed by this Court in ***Jitendra Khimshankar Trivedi & Ors. v. Kasam Daud Kumbhar & Ors. reported in 2015(1) R.C.R. (Civil) 828 : 2015(1) Recent Apex Judgments (R.A.J.) 465 : 2015 (4) SCC 237.***

6. In this manner the total compensation would be ₹ 5,03,200/- on which the appellant shall also get interest at the rate of 9% from the date of petition till realisation of the amount. The amount already paid shall stand adjusted and the balance amount shall be paid to the appellant within a period of 8 weeks from the date of the receipt of the copy of this order.

The appeal stands allowed in the aforesaid terms.

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