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Madhya Pradesh High Court

Case No: Miscellaneous Appeal No. 547/91

M.P. State Road Transport Corporation	APPELLANT
Vs	
Rambagas and Another	RESPONDENT

Date of Decision: March 8, 2000

Citation: (2000) 4 MPHT 102

Hon'ble Judges: Bhawani Singh, C.J; A.K. Mishra, J

Bench: Division Bench

Advocate: Yogesh Dhande, for the Appellant; Himanshu Chourasia, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Bhawani Singh, C.J.
This appeal is directed against the award dated 12-8-1991 passed by Motor Accidents Claims Tribunal, Narsinghpur in Claim Case No. 3 of 1987.

2. On 23-8-1986 at about 5.45 p.m., respondent No. 2 Abdul Wahid Qureshi (driver) came with Bus No. CPH 8865 towards southern gate of the Motor Stand driving the vehicle in a rash and negligent manner as per claimant who was purchasing vegetables in front of bus stand at that time. The bus dashed against him and he sustained fracture on right hand and underwent treatment at Narsinghpur and Jabalpur.

3. Claimant was carpenter and was earning Rs. 40.00 per day. Due to accident, he became handicapped and could not work; therefore, a claim for compensation in the sum of Rs. 3,80,000.00 is made by him against the appellant-Corporation. The Corporation denied the allegation and submitted that the claimant was not earning to the extent stated by him. This apart, the age of the claimant is said to be 37 years at the time of accident and not 30 years, as stated by the claimant.

4. Issues were framed by the Tribunal, Parties led evidence and ultimately compensation to the extent of Rs. 1,35,000.00 has been awarded by the Tribunal. The appellant has serious grievance against the extent of award made by the Tribunal in this case, hence this appeal.

5. Learned counsel for the appellant contended that the award deserves to be set aside since it is excessive as the evidence relating to injuries has neither been considered properly nor right multiplier applied in the case. It is also submitted that the income of the claimant has not been properly settled in this case. The submissions of the learned counsel for the appellant have been denied by the learned counsel for the other side and it is contended that the claimant has been affected by the accident in question to the extent that he is not in a position to work thereafter. Learned counsel drew our attention to the evidence in the case in support of his contentions.

6. The statement of claimant is that he was earning Rs. 40.00 per day and due to the accident he has become handicapped and can not work. He has stated his age as 37 years. There is no dispute about the accident having taken place and the claimant having received injuries in his right hand in the said accident. There is dispute about the extent of injury and it is contended by the learned counsel for the appellant that the injury is not serious enough to make it a case of 100% disability. Doctor has not said so and claimant has not supported this version. It may be true that the doctor has not clearly stated about the degree of disability but the prescription of treatment Ex. P-20 clearly shows that the right fore-arm of the claimant was affected due to the accident and its movement was restricted and doctor has advised him light work. Thus doctor has supported his finding in his statement before the trial Court.

7. From the evidence, it is also clear that the claimant can not work the same way as he had been doing before. Doctor has advised him to do light work. What light work ? Normally, carpenter''s work is heavy in nature and he can not he engaged by any one to do light work. The fact remains that the claimant is incapacitated from doing normal carpentry work. Moreover, evidence also suggests that his fracture has not been properly joined.

Evidence further shows that the claimant was earning Rs. 40.00 per day. In the absence of evidence in the rebuttal, there is no reason why his statement that he was earning Rs. 40.00 per day should be disbelieved. If we, accept this statement, then the claimant was earning Rs. 1200.00 per month. Even if it is accepted that the multiplier of 25 applied by the Tribunal is on the higher side and even if reasonable multiplier is applied, that would not change the amount of compensation to be awarded. With respect to other items of award, we find nothing unreasonable. The accident took place in 1986. The award was passed in 1991 and we arc in 2000 The period of 14 years has passed and the claimant has been paid only half of the amount awarded while the other half has throughout been utilised by the appellant.

8. In the totality of circumstances, there is no case for disturbing the award passed by the Tribunal. The same is maintained and the appeal is dismissed. No order as to costs.