

(1992) 11 MP CK 0037

Madhya Pradesh High Court (Indore Bench)

Case No: M.A. No. 96 of 1986

Kishanlal

APPELLANT

Vs

Asgarali and Others

RESPONDENT

Date of Decision: Nov. 17, 1992

Citation: (1993) ACJ 546

Hon'ble Judges: V.S. Kokje, J; M.W. Deo, J

Bench: Division Bench

Advocate: Sujan Jain, for the Appellant; M.L. Dhupar, for the Respondent

Final Decision: Allowed

Judgement

M.W. Deo, J.

On 10.12.1981 the petitioner-appellant Kishanlal was a pillion rider on the motor cycle of one Kanhaiyalal. At about 5.00 p.m. while the motor cycle was moving near Engineering College, Ujjain, at slow speed, the truck bearing registration number MPU 6535 was driven rashly and negligently by the driver in the employment of his owner and caused an accident by hitting the motor cycle in a head-on collision. Kishanlal sustained severe injuries including a fracture of the right foot. He was admitted in hospital for treatment of the fracture and was indoor patient for 27 days. Though the fracture was reduced, Kishanlal suffered shortening of the right leg by one and half inches resulting in permanent disability of 65 per cent. According to Kishanlal, he earned Rs. 1,200/- per month by dealing in bricks. His earning was adversely affected due to the permanent disability. Consequently, he claimed a sum of Rs. 15,000/- on account of expenses of treatment, Rs. 20,000/- on account of bodily pain and suffering, Rs. 14,500/- on account of loss of wages during the period of treatment and remaining amount on account of permanent disability making a total of Rs. 1,00,000/-.

2. The Tribunal assessed the quantum of total compensation at Rs. 11,400/-.

3. In appeal the only question argued was about the quantum of compensation.

4. It is to be seen that there is good evidence on record and that was not challenged in appeal to the extent that the appellant has suffered a fracture of the right leg and other injuries and had to undergo treatment involving indoor hospitalisation for 27 days. He was given a plaster and the further treatment went on for a few months. The appellant has deposed that he had to spend about Rs. 14,000/- on his treatment. The appellant has not produced any documentary evidence in support of these expenses. It is, however, settled law in claim cases that the court should take liberal attitude and in the very nature of the things a person is not expected to keep all vouchers and bills of all expenses of treatment involving a substantial amount of sundry items. It is now settled law that even if such documents are not proved, expenses for treatment should be assessed looking to the nature of injury and the period of treatment. With these two guidelines, we are of the opinion that the appellant certainly deserves to be allowed Rs. 8,000/- on account of expenses of treatment for his injuries including fracture of the right leg which resulted in a permanent disability of 65 per cent.

5. The Claims Tribunal has awarded a compendious amount of Rs. 9,000/- on account of permanent disability and bodily pain and suffering. This approach is not correct. The assessment on account of bodily pain and suffering has to be independent of permanent disability. We assess the amount of compensation for bodily pain and suffering at Rs. 15,000/- in view of the nature of injury and the length of treatment.

6. The Tribunal has assessed the monthly income of Kishanlal at Rs. 400/- which according to us is not correct. Kishanlal deposed that he earned Rs. 1,200/- per month by dealing in bricks. There is nothing in cross-examination which should make him totally disbelievable or reduce the figure of Rs. 1,200/-. After all Kishanlal is a person of 31 years and runs family expenses and, therefore, the statement that he earned Rs. 1,200/- per month deserves to be accepted. He was without work for six months on account of the injury received by him. The loss of wages for six months, therefore, amounts to Rs. 7,200/-. Kishanlal has further to be granted some compensation on account of a permanent disability due to shortening of his leg by one and half inches because such permanent disability is bound to adversely affect his business of dealing in bricks. We assess this compensation at Rs. 10,000/- in view of the nature of his business. Thus, the total assessment of compensation works out to Rs. 40,200/-.

7. The appeal is accordingly allowed. The total amount of compensation is enhanced to Rs. 40,200/- from Rs. 11,400/- granted by the Tribunal. The aforesaid amount of compensation of Rs. 40,200/- shall carry interest at the rate of 9 per cent per annum from the date of the petition till payment. Any amount which has already been paid to the appellant shall be adjusted against the amount of compensation assessed in this appeal. The appellant shall have costs of this appeal from the respondents, who will bear their own. Counsel's fee Rs. 500/- if certified.