

(2017) 01 MP CK 0197

MADHYA PRADESH HIGH COURT

Case No: 644 of 2007

SANGEETA BHOJAK

APPELLANT

Vs

RAJKUMAR BHOJAK

RESPONDENT

Date of Decision: Jan. 30, 2017

Acts Referred:

- Motor Vehicles Act, 1988, Section 173, Section 173 - Appeals

Hon'ble Judges: S.K.Awasthi

Bench: Single Bench

Advocate: H K Shukla, Arvind Kumar Agarwal

Judgement

1. This is an appeal filed by the claimant under Section 173 of the Motor Vehicles Act, 1988 (for brevity, the "Act") against an award dated 24.5.2007 passed by Motor Accident Claims Tribunal (MACT), Shivpuri in Claim case No.168/2006. By the impugned award, the Claims Tribunal has awarded a total sum of Rs.90,400/- with interest to the claimant by way of compensation for the injury which he sustained in an accident. According to the claimant i.e. appellant herein, the compensation awarded is on lower side and thus, needs to be enhanced.

2. The Claimant has filed this appeal only for the enhancement in the compensation awarded by the Claims Tribunal, therefore, the question that arises for consideration is whether any case for enhancement in compensation awarded by the Tribunal on facts / evidence adduced is made out in -(2)- MA No. 644/2007 the compensation awarded and if so, to what extent ?

3. It is not necessary to narrate the entire facts in detail, such as how the accident occurred, who was negligent in driving the offending vehicle, who is liable for paying compensation etc. It is for the reason that firstly all these findings are

recorded in favour of claimant by the Tribunal. Secondly, none of these findings though recorded in claimant's favour are under challenge at the instance of any of the respondents such as owner/driver or insurance company either by way of cross appeal or cross objection. In this view of the matter, there is no justification to burden the judgment by detailing facts on all these issues.

4. Learned counsel for the appellant submits that the appellant was aged 36 years at the time of accident, which took place on 13.5.2005. The appellant was hospitalised from 13.5.2005 to 19.5.2005 in S.M.Hospital and Research Centre Pvt. Ltd., Gwalior. The appellant sustained fracture on left femur bone. The appellant was suffering permanent disability up to 15% disability. The Tribunal has awarded a sum of Rs.90,400/- as compensation, break up of which is as under :

Rs. 50,000/-	Towards permanent disability and loss of income.
Rs. 5000/-	Towards pain and suffering
Rs. 35387/-	Towards medical expenses

5. Learned counsel for the appellant submits that the Tribunal has not awarded any amount under the heads of "special diet", "attendant expenses" and "travelling expenses" and looking to the injuries sustained by the appellant, the amount awarded by the Tribunal cannot be said to be just and proper.

6. Learned counsel for respondent No.3 submits that looking to the injuries sustained by the appellant, the amount awarded by the Tribunal is just and proper and no further enhancement is needed.

7. I have gone through the evidence adduced by the claimant on the issue of injuries sustained by him. After taking into consideration of the evidence on record, it appears that the amount awarded by the Tribunal is on lower side. In my opinion, it will be proper to enhance the compensation by additional amount of Rs.50000/-. In other words, the appellant is held entitled for a total sum of Rs. 1,40,400/- by way of compensation for the injuries sustained by him in the accident. The enhanced amount of Rs.50,000/- shall carry interest @ 7% per annum.

8. With the aforesaid modification the appeal stands disposed of. No order as to costs.