

(1998) 05 PAT CK 0040
Patna High Court
Case No: M.A. No. 195 of 1997 (R)

Vijay Kant Upadhaya

APPELLANT

Vs

Sideshwar Prasad and
Others

RESPONDENT

Date of Decision: May 6, 1998

Citation: (1998) 3 BLJR 2327 : (1998) 2 PLJR 486

Hon'ble Judges: B.P. Sharma, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

B.P. Sharma, J.

This appeal has been filed against the judgment and Award dated 20th December, 1996, of the Motor Vehicle Accident Claim Tribunal, presided over by Shri Bishwanath Prasad Singh, 1st Additional District Judge, Palamau, Daltonganj, in V.M. Case No. 16 of 1987.

2. It appears that the appellant has suffered some loss on account of injury caused to him in an accident. He is said to have been hit by a car, being registration No. B.P.N. 36 belonging to respondent No. 1 and ensured by respondent No. 2. It appears that the appellant has remained confined in the Hospital for a period which is a little less than eight months. However, from the impugned order of the lower court it appears that he was hospitalised for a period of six months. The impugned award has been challenged regarding the quantum of compensation.

3. It is submitted that the appellant happened to be a contractor having an income of Rs. 30,000/- per year and, therefore, his pecuniary loss was to the tune of about Rs. 20,000/-. He also claimed a sum of Rs. 16,000/- as the expenses incurred on his treatment during that period and apart from it he also claimed compensation for his agony and shock on account of the injury suffered by him in the said accident. However, the learned Tribunal in absence of any positive material assessed a sum of

Rs. 9,000/- as loss of income, further Rs. 5,000/- towards compensation on account of mental shock and agony and Rs. 16,000/- as the cost for treatment, Thus total sum of Rs. 31,000/- has been awarded by the learned Tribunal.

4. So far as compensation fixed by the court below towards loss of income is concerned, it has been done on account of the fact that there was no positive material available on record to the effect that he was an Income Tax Payee nor any paper was produced regarding the income from contract as well as agriculture. So the court below assessed the loss of his income on the basis of materials and evidence available on record and there does not appear to be any reason to interfere with its finding in this regard.

5. So far as the findings of the courts below on other items are concerned, there is no reason to interfere with the same as the amount fixed by it correct. However, the learned Counsel for the appellant submitted that no interest has been awarded though the accident took place in the year 1987 and the award was given in 1996. However, it has been pointed out by the learned Counsel for the respondents that from the record it will appear that though the evidence started in the year 1991, the least witness was examined in the year 1993 and, therefore, there was delay in disposal of the case. Therefore, since it was on account of the laches on the part of the appellant himself that there was delay and there is no specific material to show that any demand was made by him, which was refused by the respondents, the court below does not appear to have felt inclined to award interest.

6. Considering the entire circumstances, it appears that there is no ground for interfering with the judgment and award of the court below. Accordingly, this appeal is dismissed and the award of the court below is confirmed. No cost.