

Subulaxmi vs. Managing Director, Tamil Nadu State Transport Corporation and Another [(2012) 10 SCC 177]

Civil Appeal No. 7750 of 2012

Court – Supreme Court of India

Bench – K.S.P Radhakrishnan and Dipak Mishra JJ

Decided on – 1 November, 2012

Relevant sections – Section 166 Motor Vehicles Act 1988

FACTS

The appellant filed an application under Section 166 of the Motor Vehicles Act, 1988, which talks about application for compensation, before the Motor Accidents Claims Tribunal, Srivilliputtur, putting forth a claim of Rs.6,50,000 as compensation for the injuries sustained by her in a motor vehicle accident.

The facts which are essential to be set forth are that on 13th March, 1998, the appellant, aged about 30 years, a match industry operative while travelling in a bus having registration number TN 59-N0912 belonging to the Tamil Nadu State Transport Corporation, Madurai Division (V), the respondent No. 2 before the tribunal, encountered with an accident with another bus having registration number TN 59-N0912 belonging to the Madurai Division (I) of the said Corporation, the respondent No. 1 therein.

The accident happened because of careless and negligent driving of the drivers of both the vehicles. In the accident, the claimant suffered serious injuries which ultimately resulted in the amputation of left leg below knee and abrasion in right shoulder and later amputation of right foot.

She was earning a sum of Rs.1,500 per month at the time of accident and remained in the hospital for a period of five and half months.

ISSUE

In this case of accident the appellant i.e. Subulaxmi has claimed a sum of Rs 6,50,000 as compensation, which includes, the amount of prolonged pain and suffering, incapacity to have any future income and the lack of other facilities of life and future comforts.

The tribunal granted Rs 2,00,000 as compensation by award dated 22.10.2002. It is essential to state here that the tribunal had granted Rs.86,000 towards permanent disability assessing the same at 86%, Rs.14,000 towards pain and suffering, Rs.66,000 on the head of loss of future income, Rs.10,000 for medical expenses, Rs.15,000 towards extra nourishment, Rs.5,000 for loss of income during the treatment period and Rs.4,000 towards transport charges.

Being agrieved by the award, the claimant preferred Cross Objection (MD) No. 45 of 2008 for enhancement of the quantum. The High Court, while calculating the amount of compensation, did not grant any amount for permanent disability but improved the future income to Rs.1,15,000 and added Rs.75,000 for replacement of artificial limb and for future medical expenses. It also granted Rs.10,000 for loss of facilities and Rs.10,000 towards attendant charges. On certain heads it also slightly enhanced the amount as a consequence of which the amounts stood enhanced to Rs.2,75,000.

The main issue here was whether the hon'ble Supreme Court will enhance the quantum of compensation or not?

RULES

The Court has resided upon the fundamental concept of just compensation regard being had to the value of life and limb in our country. Needless to say, the approach in such matters has to be liberal as well as a balanced one.

ANALYSIS

Laxman v. Divisional Manager, Oriental Insurance Co. Ltd. and another [2012 ACJ 191], the bench referred this case's judgement for determining the quantum of compensation for permanent or temporary disability.

This case says:

“The ratio of the above judgments is that if the victim of an accident writhes permanent or temporary disability, then struggles should always be made to award satisfactory compensation not only for the physical injury and treatment, but also for the pain, suffering and trauma produced due to accident, loss of earnings and victim’s incapability to lead a normal life and enjoy amenities, which he would have enjoyed but for the disability caused due to the accident.”

The compensation awarded by the Tribunal for pain, suffering and trauma caused due to the amputation of leg was insufficient. It is not in dispute that the appellant had stayed in the hospital for a period of over three months. It is not possible for the tribunals and the courts to make a precise calculation of the pain and trauma suffered by a person whose limb is amputated as a result of accident. Even if the victim of accident gets artificial limb, he will writhe from different kinds of handicaps and social stigma throughout his life. Therefore, in all such cases, the tribunals and the courts should make an extensive guess for the determination of setting the amount of compensation.

Admittedly, at the time of accident, the appellant was a young man of 24 years. For the remaining life, he will suffer the trauma of not being able to do his normal work. Therefore, we feel that ends of justice will be met by awarding him a sum of Rs1,50,000 in lieu of pain, suffering and trauma caused due to the amputation of leg.

The compensation awarded by the Tribunal for the loss of amenities was also insufficient. It can only be a matter of thoughts as to how the appellant will have to live for the rest of his life with one artificial leg. The appellant can be expected to live for at least 50 years. During this period he will not be able to live like a normal human being and will not be able to enjoy life. The prospects of his marriage have significantly compact. Therefore, it would be just and reasonable to award him a sum of Rs1,50,000 for the loss of amenities and enjoyment of life.”

As far as the pain and suffering and loss of facilities are concerned, we think it is apt to grant a sum of Rs.1,00,000. For other heads, namely, medical expenses, extra nourishment, transport charges and loss of earning during treatment, the amount awarded by the High Court is allowed to remain as such. Thus, the amount on the aforesaid scores would come to Rs.45,000.

CONCLUSION

High Court has enhanced the quantum of compensation and denied the interest rate of 9% on the enhanced amount. The Hon'ble Supreme Court after considering the totality of facts and circumstances finds that the interest awarded by the tribunal is just and proper and accordingly we direct that the interest on the differential enhanced sum shall carry interest at the rate 9% per annum from the date of filing of the claim petition till the date of deposit of the same before the tribunal.



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