



NEUTRAL CITATION NO. 2025:MPHC-JBP:53205

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE PRADEEP MITTAL
ON THE 16th OF OCTOBER, 2025
MISC. APPEAL NO. 1032 OF 2017
RAMKISHORE
Versus
NARAYAN DAS AND OTHERS**

Appearance:

Shri Anshul Tiwari, Advocate for appellant.

Shri Deepchand Gupta, Advocate for respondent No. 3.

Shri Shivam Pandey, Advocate for respondent No.5.

ORDER

The present appeal has been filed by the appellants under Section 173(1) of the Motor Vehicles Act, 1988, challenging the award dated 01.10.2016 passed by Addl. Motor Accident Claims Tribunal, Raheli in Claim Case No.41 of 2013.

2. Brief facts of the case are that the appellant who was a Government servant posted as Sub Inspector in Thana Kotwali Chhatarpur, on 13.12.2012 was proceeding to attend the court hearing by the Bus bearing Registration No. MP16 P 0821, which was being driven by the respondent No. 1 rashly and negligently,

hit from behind against a parked truck bearing Registration No. MP34 H0161 causing grievous injuries to the appellant.

3. The respondent No. 1 and 2 have filed their written statement and have denied the accident and liability and stated that at the time of accident the driver has possessed valid and effecting driving license and the vehicle was insured with the respondent No.

3. The respondent No. 3 the Insurance Company has denied the plaint allegation and stated that at the time of accident the driver of the vehicle had no valid and effective driving license, the vehicle was running in breach of policy conditions, therefore, the respondent No. 3 is not liable to pay the compensation.

4. It is stated by the learned counsel for the appellant that the tribunal has not properly appreciated the percentage of injury of the appellant. The tribunal has failed to appreciate that the future prospect of the appellant has been badly affected. It is also stated that the tribunal failed to award proper compensation towards transportation, special diet and future treatment and pain and suffering.

5. Learned MACT awarded Rs.25,000/- for treatment, Rs. 5000/- for transportation, Rs.5000/- for special diet and Rs. 25,000/- for pain and suffering. Thus, overall Rs.60,000/- was awarded as a compensation.

6. It is not in dispute that respondent No.1 was responsible for causing the accident and on the fateful day the vehicle was insured with respondent No.3. The only question for determination in this appeal is that whether the amount awarded by the Tribunal requires modification or not?

7. I have heard the rival submissions of learned counsel for the parties and perused the record.

8. The coordinate Bench of this Court in the case of **Sabal Singh Vs. Madhya Pradesh State Road Transportation Corporation 1996 ACJ 162** held that so far as the amount of compensation is concerned, this may be observed here that now a days the leave accumulated is encashable. If any Government servant is required to take leave for medical purposes or because of the injuries as in this case he loses the salary of commuted leave and, therefore, the claimant in this case would be entitled for the loss of work of that period for which he remained absent because of the injuries. It has come in the evidence of Nathulal, PW/4, that the accident occurred on 23.11.1985 and the claimant had to remain on leave up to 30.09.1986. Dr. Satish Shukla, PW/5 was examined on 21.02.1987. The tube inserted in the windpipe was present in the body of the claimant on that day also. This goes to show that the claimant was suffering up to September, 1986. This period comes to ten months and seven days. The claimant was getting a pay of Rs.1,393/- per month and, therefore, he will be entitled for a compensation of loss of work for the period of leave which comes to Rs.14,000/-.

9. Learned tribunal has mentioned in para no. 18 of the award that claimant has filed medical bills to the tune of Rs. 27000/- and Rs.20000/- for special diet and transportation but the Tribunal awarded only Rs.25000/- for medical bills and Rs.5000/- for transportation and Rs.5000/- for special diet. Due to injury, claimant could not perform his duty. Although he could not adduce any evidence regarding his pay but he orally stated on oath that his

salary was Rs.32000/- which was not rebutted therefore his salary should be assumed proved. He was on leave for 87 days due to his injury and medical leave was granted by the employer. By this fact, it does not mean that he has not borne any pecuniary loss of salary because if he needs medical leave in future and no leaves are available in his account then his salary will be deducted so it is not acceptable that claimant has no loss of income as his leave has been sectioned.

10. After going through the record and hearing the submissions advanced by learned counsel for the parties, I find that Tribunal has awarded lower amount in calculating the notional income and under the head of Attendent, Special Diet and did not award even a single penny under the head of Transportation.

11. Considering the overall facts and circumstances of the case, the appellant is entitled for enhancement of a sum of Rs.90,000/- as he remained on medical leave for 87 days which cannot be encashed. There is requirement to interfere under the heads of "pain and suffering Rs.25000/-" "transportation and special diet Rs.20000/- in place of Rs.5000-5000" and towards "medical treatment Rs.27000/- in place of Rs.25000/-". The enhanced amount shall also carry same interest as has been awarded by the Tribunal.

12. Therefore, in view of the foregoing discussion, this Court is of the considered opinion that the award passed by the learned Tribunal warrants interference. Accordingly, the compensation amount is enhanced from Rs.60000/- to Rs.162000/-. (Rs.162000-60,000=Rs.1,02000/-)The enhanced amount after deduction comes to Rs.1,02000/- which shall be payable along with

interest at the rate of 6% per annum from the date of filing of the claim petition till its realization against the respondent No.1 & 3 non-applicants jointly and severally.

13. In view of the foregoing discussion, appeal stands partly allowed and the impugned award is modified to the extent indicated herein above subject to following conditions: -

"i. The respondents are directed to deposit the compensation amount within 60 days from the date of this order, failing which the execution can be taken out against him.

ii. The claimant is directed to pay the requisite Court Fee, if required in the present case.

iii. On such deposit, the claimant is permitted to withdraw the amount with accrued interest and costs, by filing a proper application before the Tribunal.

iv. The record be sent back to the learned Tribunal within three weeks from this day.

v. As a sequel, interlocutory applications pending consideration, if any, shall stand closed."

(PRADEEP MITTAL)
JUDGE

msh