

S.B.Civil Misc. Appeal No.851/2004

Hanuman

vs.

Yaseen Mohd. & Ors.

DATE OF ORDER : - 28.10.2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. O.P.Rajpurohit, for the appellant.

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Heard learned counsel for the appellant. Perused the record also.

The appellant has challenged the part of the award dated 9.1.2004 by which the appellant's claim for rest of the amount except amount of Rs.60,345/- was rejected by the tribunal.

Brief facts of the case are that appellant, who was of the age of about 8 years only met with the accident on 15th Nov., 1999. He suffered fracture in his Tibia and Fibula. The claimant submitted claim petition seeking claim of Rs.6,58,500/-. The tribunal awarded total compensation of Rs.60,345/-. According to appellant, the compensation awarded is too low, hence, deserves to be enhanced.

According to learned counsel for the appellant, this court has laid down

principles for awarding compensation in cases where the injuries are suffered by the victim and relied upon the judgments of this court delivered in the case of Surendra Singh Vs. Shri Chiraguddin & Anr. reported in 1998(2) TAC 84 (Raj.) and the case delivered in Priti (Kumari) Vs. Chairman, Uttar Pradesh State Road Transport Corporation & Anr. reported in 2001 ACTC 326.

It appears from the facts of the case that the appellant was of the age of 7 years only at the relevant time. He suffered fracture of Tibia Fibula shaft and there are two minors injuries on his body. The appellant produced medical certificate Ex.9 evidencing his 9% permanent disablement. The Dr.Govind Singh Rathore, AW-1 also stated on oath that the boy suffered 9% permanent disablement. He also stated that the appellant will not have any problem in doing his day to day work and will not suffer his education. However, AW-1 Dr. Govind Singh Rathore stated that because of the accident he may have some problem in playing and doing the heavy work. The victim remained in hospital for 24 days was the allegation of the appellant, but no discharge certificate was produced by the appellant. The appellant also claimed that he twice failed in the examination, but no document was produced apart from the fact, the appellant could not made out any nexus between injuries and studies of the appellant. The tribunal awarded compensation for mental and physical pain Rs.25,000/- and Rs.15,000/- against the 9% permanent disablement and in total

awarded compensation of Rs.60,345/-. I do not find that the tribunal awarded low compensation in the facts of this case.

The judgment relied upon by learned counsel for the appellant have no application to the facts of this case. In the case of Surendra Singh (supra), the injury caused to the claimant were 65% to 70% permanent disablement and his natural urinary passage got damaged whereas in the case of Priti (Kumari) (supra), the girl is to suffer for whole of life because of shortening of leg. The facts of this case reveals that the appellant has not suffered shortening of leg or any such grave injury, which may affect his future life.

I do not find any reason to interfere in the award by which the tribunal denied the interest from 19th July, 2000 to 29th Nov., 2001 on the ground that the delay was caused by the appellant himself in getting the compensation from the tribunal.

Hence, the appeal of the appellant is dismissed.

(Prakash Tatia), J.

c.p.goyal/-