

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAI PUR BENCH, JAI PURORDERS. B. Civil Misc. Appeal No. 162/2006
{Narayan Singh Versus Ganpat Singh & Others}Date of Order :: 31st October, 2008

PRESENT

HON'BLE MR. JUSTICE NARENDRA KUMAR JAIN

Mr. Sunil Jain for the appellant

BY THE COURT:

Heard Learned counsel for the appellant.

2. This appeal on behalf of injured claimant under Section 173 of the Motor Vehicles Act, 1988 is directed against impugned award dated 14th October, 2005 for enhancement of the amount of compensation.

3. The learned counsel for the appellant contended that learned Tribunal committed an illegality in not awarding proper compensation in respect of six injuries sustained by injured in the facts and circumstances of the case. He further contended that looking to the nature of injuries, the amount of compensation awarded in the case cannot be said to be adequate amount of compensation.

4. I have considered the submissions of learned counsel for the appellant in the light

of reasons assigned by the Tribunal in the impugned order for awarding the amount of compensation. As per medical report, the appellant sustained six injuries, out of which one injury was found to be grievous as there was fracture and remaining five injuries were simple in nature. Admittedly no certificate showing any permanent disability has been placed on record. The Tribunal awarded Rs. 5000/- for grievous injury and Rs. 5000/- for remaining five simple injuries and Rs. 2010/- were further awarded for medical bills Ex. 11 to Ex. 29. The Tribunal further awarded Rs. 10,500/- on account of loss of income on the basis that his monthly income was Rs. 3500/- and about three months' time would have taken in treatment, therefore, he multiplied the salary amount by three months and, accordingly, awarded Rs. 10,500/-. The appellant stated that he remained admitted in hospital for about 11 days but no documentary evidence or certificate of the hospital was placed on record to prove this fact.

5. After considering all the facts and circumstances of the present case, I am of the view that amount of compensation awarded in the present case by the Tribunal appears to be just

and reasonable and no interference in it is called for.

6. The Hon'ble Supreme Court in *Divisional Controller, KSRTC Versus Mahadeva Shetty and Another* {(2003) 7 Supreme Court Cases 197} has held that the compensation is not expected to be a windfall for the victim. Statutory provisions clearly indicate that the compensation must be "just" and it cannot be a bonanza; not a source of profit but the same should not be a pittance. Every method or mode adopted for assessing compensation has to be considered in the background of "just" compensation which is the pivotal consideration. The expression "just" denotes equitability, fairness and reasonableness and non-arbitrariness. Para 15 of the judgment is as under:

"It has to be kept in view that the Tribunal constituted under the Act as provided in Section 168 is required to make an award determining the amount of compensation which to it appears to be 'just'. It has to be borne in mind that compensation for loss of limbs or life can hardly be weighed in golden scales. Bodily injury is nothing but a deprivation which entitles the claimant to damages. The quantum of damages fixed should be in accordance to the injury. An injury may bring about many consequences like loss of earning

capacity, loss of mental pleasure and many such consequential losses. A person becomes entitled to damages for the mental and physical loss, his or her life may have been shortened or that he or she cannot enjoy life which has been curtailed because of physical handicap. The normal expectation of life is impaired. But at the same time it has to be borne in mind that the compensation is not expected to be a wind fall for the victim. Statutory provisions clearly indicate the compensation must be "just" and it cannot be a bonanza; not a source of profit but the same should not be a pittance. The Courts and Tribunals have a duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be "just" compensation is a vexed question. There can be no golden rule applicable to all cases for measuring the value of human life or a limb. Measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of "just" compensation which is the pivotal consideration. Though by use of the expression "which appears to it to be just" a wide discretion is vested on the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression "just" denotes equality, fairness and reasonableness, and non-arbitrary. If it is not so it cannot be just."

7. In view of above, I do not find any

merit in this appeal and the same is, accordingly, dismissed.

(NARENDRA KUMAR JAIN), J.

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