

United India Insurance Co. Ltd.

Vs

Narendra Pandurang Kadam and others

Civil Appeal No. 9465 of 1994

(B. P. Jeevan Reddy, S. C. Sen JJ)

16.12.1994

JUDGEMENT

SEN, J.

1. Leave granted.
2. This case has arisen out of an insurance claim made by Narendra Pandurang Kadam. Narendra was a bright student studying Industrial Electronics. He stood first in his class and fourth in the college. He was physically fit and a sportsman. On 18-5-1980, at about 6 a.m., Narendra was travelling with one Sunil David on motorcycle bearing No. GDC-7526 along Afonso de Albuquerque Road, Panaji, Goa. When the motorcycle carrying the claimant and his companion had reached a road crossing the bus No. GDC-1574 driven by the Alisaheb Appasaheb Nadar, belonging to Ashok Vishwanath Naik came from the Western section of Albuquerque road, and collided with the motorcycle. As a result of which Narendra sustained serious injuries.
3. Narendra's case is that the accident was due to rash and negligent driving on the part of the driver of the bus. He was plying the bus at very High speed, and was unable to control the vehicle at the inter-section. After the accident the motor cycle was dragged to a considerable distance before the bus could be stopped. As a result of the accident, Narendra sustained fracture of the bone in the left leg resulting in permanent shortening of the leg, disability of the right index finger, fracture of the 6th and 7th ribs, loss of vision of both eyes with 100% disability and one of his kidneys had to be removed. The bus was insured with United India Insurance Company Ltd., the appellants herein.
4. Narendra lodged a claim for compensation before the Motor Accident Claims Tribunal, Panaji, Goa. The claim was for Rs. 6,25,000/-. The claim was lodged after more than two years. A preliminary point of limitation was raised by the bus driver, the owner of the vehicle and the Insurance Company. The preliminary objection did not succeed. The Tribunal after a review of the evidence produced before it held that the claimants had proved that the accident was due to rash and negligent driving on the part of the driver of the bus. The Tribunal found that the claimant had been hospitalised at Goa Medical College for three months for treatment of injuries suffered by him. Having regard to the injuries suffered by the claimant, the Tribunal held he was entitled to a compensation of Rs. 1,50,000/-.
5. Aggrieved by the order of the Tribunal, Narendra preferred an appeal to the Bombay High Court. A Division Bench of the Bombay High Court upheld the finding of the Tribunal that the accident was due to rash and negligent driving by the bus driver. The cross-objection filed by the Insurance Company was dismissed. After taking into consideration the prospect of the appellant in life and his

potential earning capacity before the accident, it observed that the injuries sustained by the appellant, unfortunately, left him completely disabled and his life, hence-forth, will be miserable. Therefore, the pain and agony, loss of amenities in life and permanent disability, as well as the necessity to provide for future expenses incidental to the injuries sustained, fully justify a higher compensation. The compensation was enhanced from Rs. 1,50,000/- to a total of Rs. 2,70,000/- with interest at the rate of 12 per cent. per annum from the date of the accident till actual payment. This compensation had to be paid jointly and severally by the respondents. Costs were to be paid by the respondents.

6. The Insurance Company has now come up in appeal before this Court. On 17th July, 1987 an order was passed condoning delay of 330 days in preferring this appeal and also directing issue of notice to the respondents. The notice was confined to only one question i.e. whether the direction issued by the High Court relating to the payment of interest was in conformity with Section 110-CC of the Motor Vehicles Act. The appellant was directed to pay Rs. 1,000/- by way of cost to the respondent within two weeks.

7. The contention of the appellant is that a Court or a Tribunal cannot allow interest from a date earlier than the date of making of the claim for compensation. The contention of the appellant appears to be borne out by the clear language of the statute. Section 110-CC provides :-

"110-CC. Award of interest where any claim is allowed - Where any Court or Claims Tribunal allows a claim for compensation made under this Act, such Court or Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making of the claim as it may specify in this behalf."

- 1 Pain and mental shock. Rs. 25,000
 2. Fracture of left leg and shortening of leg, skin grafting. Rs. 25,000
 3. Rt. index finger operated. Rs. 5,000
 4. Fracture of 6th and 7th ribs. Rs. 5,000
 5. Rt. Kidney removed. Rs. 10,000
 6. Loss of vision of both eyes. Rs. 50,000
 7. Loss of future income and enjoyment of life(average pay Rs. 1500 p.m. x 12 x 25 years).
Rs.4,50,000
 8. No chances of marriage. Rs. 25,000
 9. Medical expenses and other expenses, extra food, fruits, travelling Rly. charges, medical bills, expenses etc. Rs. 25,000
 10. One more operation on left leg. Rs. 5,000
- Total : Rs.6,25,000

8. Ideally a claim should be settled as soon as it is made. Because of the delay in settlement of the claim by legal process or otherwise interest may be awarded but such interest cannot be from a date earlier than the date of the claim. The language of S. 110-CC is clear that the interest can be awarded by the Court or Tribunal at such rate as it thinks fit but the interest cannot be made payable from a date earlier than the date of the claim. The contention of the appellant on this point appears to be prima facie correct.

9. This, however, is not the end of the problem in this case. The accident caused by the rash and negligent driving of the bus No. GTS-1574 has ruined the life of the claimant. Considering that the claimant was a young man of good health, a sportsman and a bright student, the amount of compensation given by the Bombay High Court does not appear to be on the high side. The claim made was for a total sum of Rs. 6,25,000/- made up as under:-

10. The claimant was able to get a small amount of the claim. In fact, the claim of Rs. 4,50,000/- on account of loss of future income and enjoyment of life was made on a very modest basis of Rs. 1,500/- per month. Even that was not allowed in full. The amount of compensation was brought down to Rs. 2,70,000/-. Considering the enormity of the suffering underwent by the claimant and also the permanent injuries sustained by him as well as loss of future income and enjoyment of life, we are disinclined to interfere with the order directing payment of interest. This will have the effect of further reduction in the quantum of compensation awarded by the High Court.

11. There was also enormous delay of 330 days for coming to this Court by the appellant. The claim was not settled promptly. On the contrary, the case has been dragged on mercilessly. The appellant also did not pay Narendra, the respondent No. 1, Rs. 1,000/- as directed by this Court in time. The respondent No. 1 will be entitled to retain the said sum of Rs. 1,000/-. The appellant will pay the respondent No. 1 a further sum of Rs. 5,000/- by way of costs.

12. The appeal is dismissed. Appeal dismissed

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