

Suresh Chandra

Vs

State of U.P. and Another

Civil Appeal No. 9933 of 1995

(J. S. Verma, K. Venkataswami JJ)

09.11.1995

JUDGMENT

K. VENKATASWAMI, J

1. Leave granted.

2. Heard counsel on both sides.

3. This appeal by special leave is preferred against the Judgment and Order in, FAFO No. 994 of 1994 of the Allahabad High Court dated 22-9-1994. The appellant while working as Beldar, to be more specific, while pouring water on the wheels of the roadroller moving on the road, met with an accident on 8-5-1989. As a result of the said accident, the appellant's right leg had to be amputated. As the accident was due to the negligence on the part of the person who drove the roadroller belonging to the first respondent, the appellant moved a claim petition before the Motor Accident Claims Tribunal, Etawah, claiming a sum of Rs. 5,30,000. The Tribunal found that the negligence was on the part of the person who drove the roadroller. It may be mentioned at this place that the regular driver who was permitted to drive the said roadroller was on leave and the cleaner who had no licence factually drove the roadroller on the date of accident. The Tribunal, on the basis of the evidence placed before it, awarded a total compensation of Rs. 1,45,000 with interest at 12%.

4. Aggrieved by the award of compensation of Rs. 1,45,000 the respondent preferred an appeal to the High Court. The learned Judge while concurring with the finding of the Tribunal that the accident had occasioned on account of the negligence on the part of the person who drove the roadroller, reduced the compensation from Rs. 1,45,000 to Rs. 85,000 with interest at 12%. For reducing the amount of compensation from Rs. 1,45,000 to Rs. 85,000, the High Court has accepted the contention advanced on behalf of the respondents herein (appellants before it) that the claimant would have secured only Rs. 85,000 by way of compensation if he had moved the Commissioner of Workmen's Compensation. We do not think that the High Court was right in accepting that reasoning on the facts of this case when the finding is that the accident had occasioned while the roadroller was on the move and the negligence was on the part of the person who drove the roadroller belonging to the respondents. The fuller fact to be noted here is that the appellant was just 18 years old at the time of accident as found by the High Court and he has to live with that throughout his life. The compensation awarded by the Tribunal itself was not much warranting as appeal to be preferred by the State.

5. In the circumstances, the judgment and order of the High Court is set aside and that of the Tribunal in MAC No. 129 of 1989 dated 21-5-1994 is restored. The appeal is accordingly allowed

with costs.