

SUPREME COURT OF INDIA

Ram Kiran Goyal

Vs.

Sub Divisional Engineer & Ors.

C.A.No.10512 of 2011

(Aftab Alam and Ranjana Prakash Desai,JJ.,)

05.12.2011

JUDGMENT

Aftab Alam,J.,

SLP. (Civil)No.12045 of 2009

1. Delay condoned

2. Leave granted

3. The original appellant, Ram Kiran Goyal @ Ram Karan, who had gone to the Motor Accident Claims Tribunal, claiming compensation for the injuries suffered by him in a motor accident, is no more. He died during the pendency of the appeal and was substituted by his legal representatives, who now pursue the claim.

4. On December 14, 1987, Ram Karan was travelling in a Maruti car on way from Delhi to Jaipur. At about 9.30 in the morning, near village Assalwas on Highway No. 8, a truck going ahead of the car suddenly took a right turn without giving any indication and as a result the car had a head-on collision with the larger vehicle. In the accident, Ram Karan and the other occupants of the car (that included his brother, a third person and a fourth person who was driving the car) received grievous injuries. Ram Karan received injuries mainly in his legs and head. He also got a number of teeth broken that had to be extracted. He remained under treatment in a hospital as an indoor patient for three months. At the time of the accident he was 42 years old.

5. Ram Karan made an application (M.A.C.T. Petition No. 17/1988/1990) before the Motor Accident Claim Tribunal, Rewari, claiming rupees six lakhs as compensation. It was stated before the Tribunal that, as a result of the injuries suffered by him in the accident, he remained under treatment for a long time and had spent more than rupees one lakh on his treatment. He further pleaded that in the accident he lost all his teeth and due to the injuries suffered in the accident he could not stand or walk properly and he could only walk with the

help of crutches. As a result, he was unable to perform the normal chores and the work that he used to do earlier.

6. The Tribunal, by its judgment and order dated April 18, 1991 found and held that the accident took place because of the rash and negligent driving of the truck driver, who took a right turn without giving any signal, knowing fully well that National Highway No. 8 is a busy road frequented by heavy vehicular traffic. In granting compensation to the claimant, however, the Tribunal was rather tight fisted and awarded to him a lump sum amount of Rs. 50,000/-, with simple interest at the rate of 12% per annum. The amount was fixed without any reference to the well established heads under which compensation is to be awarded in a case of death or injuries caused in a motor accident.

7. Against the order of the Tribunal, Ram Karan, preferred appeal (First Appeal from order No. 1184/1991) before the Punjab and Haryana High Court. A learned single judge of the High Court allowed the appeal, enhancing the total compensation amount to Rs. 1 lakh with interest at the rate of 12% per annum from the date of the filing of the claim petition. The single judge held the claimant entitled to compensation of Rs. 50,000/- for his disability, Rs. 25,000/- for the pain and agony suffered by him and Rs. 10,000/- for future loss of income. In addition, the learned single judge awarded the claimant Rs. 15,000/- towards medicines and medical treatment. For fixing the compensation towards medical treatment, the single judge took into account some of the vouchers that were produced by the claimant.

8. In further appeal (L.P.A. No. 1149/2001) a division bench of the High Court increased the disability compensation from Rs. 50,000/- to Rs.1,10,000/- and directed that the additional sum of rupees sixty thousand would carry interest @ 9% per annum from the date of filing of the claim petition. The compensation awarded by the single judge under the other heads was left undisturbed by the division bench.

9. The claimant, still not satisfied, brought the matter before this Court.

10. On hearing counsel for the parties, we are satisfied that the division bench of the high court rightly determined the disability compensation payable to the appellant, having regard to the fact that the disability suffered by the appellant was medically assessed at 55%. We, however, find that the claimant was not properly compensated for expenses related to treatment, hospitalization and medicines etc.

11. In a recent decision in *Raj Kumar v. Ajay Kumar*¹, this Court has considered in detail the different heads under which compensation might be payable to a victim of motor accidents. In paragraph 6 of the decision, the various elements of compensation are enumerated as under -

"Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses. Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity)"

(emphasis added)

12. To us it appears that the claimant was not properly compensated under heads I and III. As noted above, the appellant remained in hospital for 3 months for his treatment. He lost all his teeth and even after coming out of the hospital he had to use crutches for walking and even standing. A sum of Rs. 15,000/- for treatment of such injuries appears to us to be wholly inadequate in the year 1987. Moreover, the nature of the injuries suffered by the claimant was such that he never fully got over the same and continued to be under medical treatment till the end of his life. Materials have been brought before this Court to show that he was obliged to undergo medical treatment all his life and with age the extent of his disability, resulting from the accident, also continued to progress.

13. In the facts and circumstances of the case, we feel that an additional sum of Rs. 1,10,000/- must be paid to the appellants to adequately and properly compensate them under the heads (i) 'expenses relating to treatment, hospitalization, medicines, transportation, nourishing food and miscellaneous expenditure' and (ii) 'future medical expenses'. We order accordingly.

14. The additional amount shall carry simple interest @ 7% per annum from the date of application.

15. It needs to be stated here that we have fixed the aforesaid amount on a conservative estimate using our best judgment. Nonetheless, the determination has inevitably some indeterminate elements. It will be, therefore, of no use to try to see any precedent value in this order.

16. In the result the appeal is allowed to the limited extent as indicated above. The additional amount of compensation along with interest should be paid to the appellants within three months from today.

