

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 361 of 2005

Appellant :- Rakesh

Respondent :- Mahendra Pal And Others

Counsel for Appellant :- B.P. Verma,Mayank

Counsel for Respondent :- Rahul Sahai

Hon'ble Saral Srivastava,J.

1. Heard Sri B.K. Verma, learned counsel for the claimants/appellants and Sri Aditya Singh Parihar, Advocate holding brief of Sri Rahul Sahai, learned counsel for the respondents.

2. The present appeal has been preferred by the claimant/appellant against the award dated 09.11.2004 passed by the Motor Accident Claims Tribunal/Additional District Judge, Court No.2, Mathura (hereinafter referred to as 'Tribunal') in M.A.C.P. No.110 of 2003 whereby Tribunal has dismissed the claim petition of the claimant/appellant.

3. Challenging the aforesaid award, learned counsel for the claimant/appellant has contended that Tribunal has erred in law in concluding that injuries suffered by the claimant/appellant did not arise in the accident. It is submitted that there was ample evidence on record which proved that claimant/appellant suffered injuries in the accident and also suffered 55% disability which is evident from the disability certificate issued by the Chief Medical Officer. Thus, it is submitted that claimant/appellant is entitled to compensation.

4. He further submits that in case an amount of Rs.5 lac in lump-sum is paid by the insurance company to the claimant/appellant, the claim of the claimant/appellant shall stand satisfied and he shall not lay any further claim.

5. Per contra, learned counsel for the respondents would contend that finding of the Tribunal that claimant/appellant did not suffer injuries in the accident is a finding based upon proper appreciation of evidence on record and thus, being a finding of fact is not liable to be interfered with by this Court in its appellate jurisdiction.

6. Be that as it may, the Court has perused the original record of

the case and finds that claimant/appellant was admitted in Omvati Nursing Home on the date of the accident, and original prescription of doctor of Omvati Nursing Home is on record indicating the nature of injuries suffered by the claimant/appellant. The claimant/appellant has also filed certificate issued by the doctor who performed the surgery amputating fingers of left hand, and based on such surgery, the Chief Medical Officer has issued disability certificate which indicates that claimant/appellant has suffered 55% disability.

7. In such view of the fact, this Court finds that finding of the Tribunal that claimant/appellant did not suffer injury in the accident is perverse and against the record and is not sustainable in law.

8. In such view of the fact, this Court finds that the submission of learned counsel for the claimant/appellant that if claimant/appellant is paid Rs.5 lac in lump-sum, his claim shall stand satisfied is just and appropriate, and therefore, this Court in view of the aforesaid submission advanced by the learned counsel for the claimant/appellant awards Rs.5 lac in lump-sum as compensation to the claimant/appellant.

9. The insurance company is directed to pay the amount of Rs.5 lac to the claimant/appellant within a period of three months from today. If the aforesaid amount is not paid within the aforesaid period, the claimant/appellant shall be entitled to interest @ 6% from the date of institution of claim petition till the date of its payment.

10. Accordingly, the appeal is partly ***allowed*** with no order as to costs.

Order Date :- 17.10.2023

Sattiyarth