

THE HON'BLE SRI JUSTICE GHULAM
MOHAMMED

CMA No.4633 of 2004

Between

Smt. Nasreen Sultana

V

Mohd. Amjad Khan and others

THE HON'BLE SRI JUSTICE GHULAM

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CMA No.4633 of 2004

Judgment:

1) The claimant filed this appeal under Section 173 of the Motor Vehicles Act, dissatisfied with the compensation awarded by the Tribunal in OP No.2179 of 200 in its order dated 25th day of June 2004.

2) The facts in nutshell are that on 22-7-2000 the claimant-petitioner was traveling in an auto rikshaw bearing No.AHT 5829 from M.M.Pahadi to Kishanbagh, and when the auto rickshaw reached Kishanbagh at about 7.30 p.m. another auto bearing AP. 11T 5141 came in the opposite direction in a rash and negligent manner and dashed against the auto in which the petitioner was travelling, due to which the two autos fell down, the petitioner and other passengers in the autos received injuries. The petitioner was shifted to the Gandhi Hospital for treatment. The petitioner filed the present O.P. claiming compensation of Rs.1,00,000/- for the injuries sustained in the accident.

3) Before the Tribunal respondents 1 and 3 who are the owners of the autos respectively remained exparte. The United India Insurance Company which insured both the vehicles, denied the averments in the claim petition. On the basis of the rival claims, the Tribunal framed necessary issues for trial. To substantiate the claim the claimant examined himself as P.W.1, and P.W.2 and marked Exs.A.1 to A.10. On behalf of the respondents, no witness was examined, however, Ex.B.1 was marked.

4) The Tribunal on consideration of the evidence of

the claimant -P.W.1 that the accident occurred due to the rash and negligent driving of the driver of the auto bearing No. AP 11T 5141, coupled with Ex.A.1 FIR and Ex.2-Charge Sheet, held that the claimant sustained injuries on account of rash and negligent driving of the auto driver bearing No. AP 11T 5141 and the same needs no interference by this Court. According to the claimant, she is working as a tailor, however, in the charge sheet and in the disability certificate it was described as house wife. Taking into account the claimant was aged about 32 years and she used to contribute her family, an amount of Rs.3000/- can be taken as her monthly income notionally. Considering Ex.A.9-disability certificate issued by the doctor certifying disability at 30% and multiplier 16 for the age of 32 years, the total compensation to which the claimant is entitled to comes to $\text{Rs.}3000 \times 12 \times 30\% \times 16 = \text{Rs.}1,72,800/-$. The enhanced amount shall carry interest @ 7% per annum. However, the claim is only for one lakh the amount of compensation is restricted to one lakh only.

- 5) Subject to above the CMA is allowed. No costs.

GM, J

Dt; 16-12-2010

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TH HON'BLE SRI JUSTICE GHULAM MOHAMMED

CMA No.4633 of 2003

15-7-2010