

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM; NAGALAND; MIZORAM AND ARUNACHAL PRADESH)

ITANAGAR PERMANENT BENCH(NAHARLAGUN)

MAC App. 06 (AP) 2018

***Shri Taken Pute,
S/o Late Takap Pute,
R/o Giba Village,
P.O./P.S.- Daporijo,
Upper Subansiri District,
Arunachal Pradesh.***

.....Appellant/claimant

-Vs-

1. ***Commandant (GREF) c/o 99 A.P.O.
77-RCC, Daporijo, Upper Subansiri District,
Arunachal Pradesh.***
2. ***Shri Md. Janil (driver), Chest No.
GS-165168, C/o-99 A.P.O., 77-RCC GREF,
Upper Subansiri District, Arunachal Pradesh.***

.....respondents

By Advocate:

For the appellant : Mr. D. Soki.

For the respondents: Mr. N. Ratan, learned CGC.

Date of hearing & Judgment : 04.12.2018

**BEFORE
HON'BLE MR. JUSTICE HITESH KUMAR SARMA**

JUDGMENT & ORDER (ORAL)

This appeal has been preferred against the judgment and order, dated 19.01.2018, passed in BSR/ MACT No. 73/2013, by the learned Motor Accident Claims Tribunal, Basar, Arunachal Pradesh, seeking enhancement of the compensation, granted to the claimant/appellant, claiming the same to be inadequate and not proportionate to the disability suffered by the appellant.

2. The fact leading to the claim, involved in this case, is that the claimant met with a vehicular accident while he was proceeding, with a pillion rider, on his motor bike from Daporijo to Maro Village. The

offending vehicle, i.e., a Tata Truck, bearing registration No. 96E-61063 of the Commandant, 99 APO, GREF (OP No.1), came from opposite direction, driving the same in an excessive speed, hit the motor cycle. It is alleged that the aforesaid Truck was driven rashly and negligently by the respondent No. 2. In the accident, which took place on 03.09.2001, the claimant/appellant sustained serious injuries resulting in his medical treatment in Arunachal Pradesh as well as in Gauhati Medical College and Hospital at Guwahati, Assam. He suffered 70% permanent disability.

3. The fact that the claimant/appellant suffered 70% permanent disability is not disputed by the respondents. It is evident from Exts. 6 & 7, produced before the Court in evidence, that the claimant/appellant suffered 70% permanent disability. The learned Motor Accident Claims Tribunal, in the impugned judgment, particularly in Paragraph-19, has categorically referred to the disabilities of the claimant/appellant. The learned Motor Accident Claims Tribunal also noticed, as indicated in the aforesaid paragraph, that the claimant/appellant is paralyzed from below his waist and could not move himself. It has also been indicated in the said paragraph of the judgment that due to injury in his backbone, the body of the claimant/appellant, below the waist, is completely paralyzed. It has also been observed in the said paragraph of the judgment that the claimant/appellant is bound to live his life in a wheel chair. The award passed by the learned Motor Accident Claims Tribunal, has not been challenged by the respondents.

4. During the course of hearing, the learned Central Government Counsel, appearing on behalf of the respondents, has submitted that the respondents have not preferred appeal against the award passed by the learned Motor Accident Claims Tribunal and that payment has also been made in accordance with the award. The learned Central Government Counsel has further submitted that the award passed by

the learned Motor Accident Claims Tribunal is just and proper and requires no interference by this Court, and as such, no enhancement is called for.

5. The learned counsel for the claimant/appellant has submitted that the claimant/appellant was a student of 3rd Year B.Com and aged about 25 years at the time of the accident, a young person with good future prospect. He has not only lost his amenities as well as prospect of marriage etc., but also lost expectation of life. Such submission of the learned counsel for the claimant/appellant appears to have solid foundations in view of the evidence on record as regards his permanent disability.

6. The learned Motor Accident Claims Tribunal awarded compensation to the claimant/appellant, in different heads, as follows:-

No.	Head	Calculation
1.	Medical and transport expenses	25,000/-
2.	Loss of amenities including loss of prospect of marriage	25,000/-
3.	Loss of expectation of life	25,000/-
4.	Expenses for future treatment	25,000/-
5.	Loss of income of last 16 years	1,00,000/-
6.	Mental and physical pain and suffering	1,00,000/-
7.	Compensation for 70% permanent disability	6,17,400/-
Total		9,17,400/-

As discussed earlier, in this judgment, we have already noticed that the claimant/appellant has suffered 70% permanent disability and he cannot move without support for the reason that lower portion

of his body has got paralyzed. Therefore, the compensation awarded at Serial Nos. 2 & 3 above, appears to be not only meager, but also completely unrealistic.

7. I have considered the decision rendered by the Hon'ble Apex Court in **Raj Kumar-vs-Ajay Kumar and Another**, reported in **(2011) 1 SCC 343**, laying down the principles governing fixation of compensation in case of permanent disability. The loco-motion disability of the claimant/appellant, as appears from the evidence on record, clearly shows that he has suffered such permanent disability which he has to carry all through his life, making his life worse than living in the hell.

8. That being so, in the considered view of this Court, the compensation granted to the claimant/appellant, under the heads at Serial Nos. 2 & 3, if enhanced to an amount of Rs.3,00,000/- each, totaling Rs.6,00,000/-, will be proportionate to his sufferings and will meet the ends of justice. Accordingly, the compensation under the said two heads is enhanced to Rs.3,00,000/- each, which will be inclusive of Rs. 25,000/-, under each count, already paid.

9. This Court, on consideration of the fact that the claimant/appellant, having permanent disability of 70% and paralyzed, living a life on the mercy and support of others, is of the view that the compensation of Rs.1,00,000/-, awarded under the head 'Mental and physical pain and suffering' (at serial No.6), needs to be enhanced to Rs.2,00,000/-. Such amount, in the considered view of this Court, shall be reasonable in view of the fact that the claimant/ appellant would suffer the mental and physical pain for the rest of his life. Accordingly, the amount of compensation of Rs. 1,00,000/- under the above head is enhanced to Rs.2,00,000/-, which will be inclusive of Rs. 1,00,000/-, under the above head, and already paid.

10. The enhanced amount, specifically mentioned in paragraphs 7 & 8 above, shall carry an interest @ 6% per annum from the date of this order, till realization.

11. With the enhancement of the compensation, as indicated at Paragraphs 7 & 8 above, the appeal is allowed.

12. Send the LCR along with a copy of this judgment.

JUDGE

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