

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 8556 of 2019
[@ Special Leave to Appeal (C) No(s). 21157/2018]

JABBAR

Appellant(s)

VERSUS

THE MAHARSHTRA STATE ROAD TRANSPORT CORPORATION

Respondent(s)

O R D E R

Leave granted.

This appeal has been filed against the judgment and order dated 06.07.2017 passed by the High Court. By which judgment, the High Court enhanced the compensation granted to the appellant from Rs.1.50 lac to Rs.2.50 lac.

The appellant was a fruit seller whose right hand was amputated after the accident. In the claim petition, the claimant, at page 24 in para 4, has claimed that he is entitled for compensation of Rs.9,05,000/- from the respondents jointly and severally and the claimant is suffering from financial crisis, therefore, he is unable to pay court fees on the said amount. Therefore, he had restricted his claim to the tune of Rs.3,00,000/-. The Tribunal accepted the case setup by the appellant and allowed the claim to Rs.1.50 lacs.

Aggrieved by the said order, the appeal was filed in the High Court. The High Court found substance in the appeal and allowed the appeal by enhancing compensation from Rs.1.50 lacs to Rs.2.50 lacs. The High Court has observed that the said amount shall be

just and fair compensation payable to the appellant for the injuries suffered.

Learned counsel for the appellant submits that the mere fact that the appellant has confined his claim to Rs.3 lacs cannot be a factor in appellant being not granted the fair and reasonable compensation for injuries suffered by him. The High Court having noticed that the appellant was carrying business of fruits on a hand-cart, the amputation of right hand has made the business of the appellant non-functional. The amount of Rs.2.5 lacs awarded by the High Court is neither fair nor just compensation. It is further submitted by learned counsel for the appellant that this Court in exercise of its jurisdiction under Article 142 of the Constitution can award just and reasonable compensation to the appellant.

Learned counsel for the respondent submits that the appellant having confined his claim to Rs.3 lacs before the High Court cannot be allowed to contend that he is entitled for any higher compensation.

We have considered submission of learned counsel for the parties and perused the record.

There is no dispute between the parties that in the bus accident, right hand of the appellant was crushed which had to be amputated. The appellant was carrying on the business of selling fruits on a hand-cart which fact has also been noticed by the High Court. In para 4 of the claim petition, although the claimant has computed the compensation to Rs.9,05,000/- on different heads but he confined his claim to Rs.3 lacs due to the reason he was unable

to deposit the court fee on Rs.9,05,000/-.

Para 4 of the claim petition reads as follows:

"That due to the amputation of right hand the claimant has become permanently disabled person, he has lost his earning capacity. The claimant is unable to do any type of work and is leading a pity miserable life and therefore, the claimant is claiming compensation under following heads.

A. Loss of future income	100-	Rs.8,10,000-00
25 (For personal expenses)		
75 X 30 X 12 X 30		
B. Expenses	towards	Rs.20,000-00
medicines, attendant	for travelling	
C. Compensation for unbearable		Rs.25,000-00
pain and agony.		
D. Loss of pleasure and		Rs.50,000-00
personality.		
	Total	Rs. 9,05,000-00

Thus, the claimant is entitled for compensation of Rs.9,05,00/- from the respondents jointly and severally because the claimant has sustained the above loss, expenses because of the accident. However, the claimant is suffering from financial crises therefore, he is unable to deposit the court fees upon the said amount therefore, he has restricted his claim to the tune of Rs.3,00,000/- and upon which court fees stamp of Rs.2,372-50 ps. is paid herewith which is sufficient. If this Hon'ble Court comes to the conclusion the claimant is entitled to get more than Rs.3,00,000/- towards compensation in that eventuality, the claimant is ready to deposit deficit court fees."

This Court in large number of cases has laid down that it is permissible to grant compensation of any amount in excess to that one which has been claimed. This Court in exercise of jurisdiction under Article 142 of the Constitution has awarded just and reasonable compensation.

It is sufficient to refer a recent judgment in *Ramla & Ors. v. National Insurance Company Limited & Ors.* [(2019) 2 SCC 192], where

this Court in para 5 has laid down:

“Though the claimants had claimed a total compensation of Rs.25,00,000/- in their claim petition filed before the Tribunal, we feel that the compensation which the claimants are entitled to is higher than the same as mentioned supra. There is no restriction that the Court cannot award compensation exceeding the claimed amount, since the function of the Tribunal or court under Section 168 of the Motor Vehicles Act, 1988 is to award “just compensation”. The Motor Vehicles Act is a beneficial and welfare legislation. A “just compensation” is one which is reasonable on the basis of evidence produced on record. It cannot be said to have become time barred. Further, there is no need for a new cause of action to claim an enhanced amount. The courts are duty bound to award just compensation.”

Looking to the facts that the appellant who was fruit seller on a hand-cart, his right hand having amputated, injury has caused him permanent disability substantially affecting his business. The award of Rs.2.5 lacs cannot be held to be a just and reasonable compensation. The appellant in his computation has claimed Rs.8,10,000/- towards loss of future income.

We have no doubt that the amputation of right hand has caused great loss of future income. There is one more reason due to which the limiting of claim of the appellant to Rs.3 lacs cannot come into way in awarding higher compensation. In the last line of para 4 of the claim petition, the appellant has stated:

If this Hon'ble Court comes to the conclusion the claimant is entitled to get more than Rs.3,00,000/- towards compensation in that eventuality, the claimant is ready to deposit deficit court fees.

The appellant has expressly stated that if it is entitled to get more than Rs.3 lacs the claimant is ready to deposit deficient court fee. This clearly means that neither the Tribunal nor the High Court was precluded from awarding higher than Rs.3 lacs.

After taking into consideration the entire facts and circumstances of the present case, we are of the view that to grant an amount of Rs.5 lacs as compensation to the appellant shall be just and reasonable. We, thus, allow the appeal and enhance the compensation amount to Rs.5 lacs. The compensation amount shall also bear 9% interest per annum from the date of claim petition.

.....J.
[ASHOK BHUSHAN]

.....J.
[M.R. SHAH]

NEW DELHI;
November 13, 2019.

ITEM NO.13

COURT NO.9

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 21157/2018

(Arising out of impugned final judgment and order dated 06-07-2017 in FA No. 678/2002 passed by the High Court Of Judicature At Bombay At Aurangabad)

JABBAR

Petitioner(s)

VERSUS

THE MAHARSHTRA STATE ROAD TRANSPORT CORPORATION & ANR.Respondent(s)

Date : 13-11-2019 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ASHOK BHUSHAN
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s) Mr. Shashibhushan P. Adgaonkar, AOR

For Respondent(s) Ms. Mayuri Raghuvanshi, AOR
Mr. Vyom Raghuvanshi, Adv.
Ms. Sangya Negi, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The civil appeal is allowed in terms of the signed order.

Pending application, if any, stands disposed of.

(MEENAKSHI KOHLI)
COURT MASTER

(RENU KAPOOR)
COURT MASTER

[Signed order is placed on the file]