

order passed by the Allahabad High Court enhancing the compensation payable to the appellant to Rs.70,000/- from Rs.37,800/- as awarded by the Motor Accident Claims Tribunal.

The appellant herein at the age of 18 years met with an accident in which he has lost his left leg below the knee.

Because of the aforesaid amputation, he has become disabled.

He filed a claim application before the Tribunal which was

considered on the basis of the evidence adduced by the parties

and the Tribunal at the conclusion of the trial passed an

award determining the compensation payable to the appellant at

Rs.37,800/- in all. The aforesaid determination was arrived

at by the Tribunal considering the fact that the claimant had

lost earning capacity for an amount of Rs. 35,000/- for 35

years, which was arrived at after taking into consideration the

income which the appellant could get from any other occupation.

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Having held so the Tribunal also awarded Rs.2000/- for pain and

suffering and also awarded an amount of Rs.3,000/- towards

medical expenses. 10% from the aforesaid amount was deducted

by the Tribunal as lump sum amount was paid to the claimant.

Being aggrieved by the aforesaid Award passed by the Tribunal, the appellant herein preferred an appeal before the Allahabad High Court. By its judgment and order passed on

7.04.2010, the High Court enhanced the compensation from

Rs. 37,800/- to Rs.70,000/- and also ordered for payment of

interest @ 6% p.a.

The High Court has also cancelled the deduction of 10% made by the Tribunal, which according to the High Court was so deducted without any reason.

We have considered the facts as disclosed from the record

and also heard the counsel appearing for the parties.

Considering the fact that the appellant has lost his left leg,

we are of the opinion that he would have to use for rest of his

life an artificial limb.

Our attention is drawn to a decision of this Court in Naqappa vs.Gurudayal Singh & Ors. reported in

2003 ACJ 12, wherein this Court has awarded an amount of Rs.1

lakh for the aforesaid purpose.

In our considered opinion, the

said amount is also required to be paid to the appellant to

enable him to use an artificial limb so as to make him enable

to take up some other avocation for earning some income.

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We also feel that the amount which is awarded towards pain and suffering i.e. Rs.2000/- and also the amount determined by the High Court towards loss of earning capacity is also on the lower side. Therefore, we increase the same to Rs.50,000/- thus fixing an additional amount of Rs. 1,50,000/-, which shall be paid by the Transport Company to the appellant.

The appellant

shall also be entitled to the interest of 6% p.a. of the said amount from the date of filing of an application till realization. We make it clear that the amount which is assessed today as due and payable to the appellant is besides Rs.70,000/-, which is already determined by the High Court as just and reasonable compensation.

In terms of the aforesaid observation and directions, the appeal is disposed of.

.....J
(DR.MUKUNDAKAM SHARMA)

.....J
(ANIL R.DAVE)

NEW DELHI
January 31, 2011