

PETITIONER:
SURESH CHANDRA

Vs.

RESPONDENT:
STATE OF U.P. & ANR.

DATE OF JUDGMENT 09/11/1995

BENCH:
VENKATASWAMI K. (J)
BENCH:
VENKATASWAMI K. (J)
VERMA, JAGDISH SARAN (J)

CITATION:
1995 SCC (6) 623 1995 SCALE (6) 270

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

K.Venkataswami, J.

Leave granted.

Heard counsel on both sides.

This appeal by special leave is preferred against the judgment and order in F.A.F.O. No. 994/94 of Allahabad High Court dated 22.9.94. The appellant while working as Beldar, to be more specific while pouring water on the wheels of road-roller moving on the road, met with an accident on 8.5.1989. As result of the said accident, the appellant's right leg had to be amputated. As the accident was due to the negligence on the part of the person who drove the road-roller belonging to the first respondent, the appellant moved a claim petition before the Motor Accident Claims Tribunal, Etawah, claiming a sum of Rs. 5,30,000/-. The Tribunal found that the negligence was on the part of the person who drove the road-roller. It may be mentioned at this place that the regular driver who was permitted to drive the said road-roller was on leave and the cleaner who had no licence factually drove the road-roller on the date of accident. The Tribunal on the basis of the evidence placed before it awarded a total compensation of Rs. 1,45,000/- with interest at 12%.

Aggrieved by the award of compensation of Rs. 1,45,000/- the respondent preferred an appeal to the high Court. The learned Judge while concurring with the finding of the Tribunal that the accident had occasioned on account of the negligence on the part of the person who drove the road-roller, reduced the compensation from 1,45,000/- to Rs. 85,000/- with interest at 12%. For reducing the amount of compensation from Rs. 1,45,000/- to Rs. 85,000/- the High Court has accepted the contention advanced on behalf of the respondents herein (appellants before it) that the claimant would have secured only Rs. 85,000/- by way of compensation if he had moved the Commissioner of Workmens' Compensation. We do not think that the High Court was right in accepting

that reasoning on the facts of this case when the finding is that the accident had occasioned while the road-roller was on the move and the negligence was on the part of the person who drove the road-roller belonging to the respondents. The further fact to be noted here is that the appellant was just 18 years old at the time of accident as found by the High Court and he has to live with that throughout his life. The compensation awarded by the Tribunal itself was not much warranting a appeal to be preferred by the State.

In the circumstances the judgment and order of the High Court is set aside and that of the Tribunal in M.A.C. No. 129/89 dated 21.5.94 is restored. The appeal is accordingly allowed with costs.

JUDIS