

A

MOHAMMED YUSUF

v.

B

KRISHNA REDDY AND OTHERS

[SUPREME COURT, 1967 (Knox-Mawer J.), 30th January, 4th, 15th
December]

Civil Jurisdiction

C

Damages—personal injury—permanent disability—assessment of special and general damages.

Assessment of general and special damages in a claim arising out of personal injury caused by negligent driving including permanent disability and substantial loss of earning capacity.

D

Action in the Supreme Court for damages for personal injury. The judgment is confined to the question of assessment of damages.

A. D. Patel for the plaintiff.

S. M. Koya for the defendants.

KNOX-MAWER J.: [15th December, 1967]—

E

This is a claim for damages sustained by the Plaintiff by reason of the negligent driving of the First Defendant as servant or agent of the Second and Third Defendants. The issue of liability has already been determined in favour of the Plaintiff and against the Defendants. It remains now to assess the damages recoverable. I find that the Plaintiff has established the following facts.

F

At the time of the accident (7th September 1962) the Plaintiff was a carpenter earning 4/6d per hour. He is now 35 years of age. He sustained a compound fracture of the skull, the consequences of which have been described by the surgeon consultant Mr. Ramrakha, whose evidence I accept without reservation. I am satisfied that by reason of his injuries the Plaintiff's mental and physical condition was such that he was incapable of doing any work at all until August 1963.

G

Dealing therefore, at this juncture, with the claim for special damages the Plaintiff must be compensated for the complete loss of income which he would otherwise have been able to make from 8th September 1962 to August 31st 1963. This I estimate at £500. In addition I accept from Mr. Ramrakha that he visited the hospital on four occasions as an out-patient and in this regard is entitled to £10 travelling expenses. To this must be added the sum of £5 in respect of medical expenses incurred on 7th September, 1962 on his admission to hospital. Special damages therefore total £515.

H

I turn now to the issue of general damages. Mr. Ramrakha examined the Plaintiff on 1st December last. He has a generalised weakness of all

the muscles of the left upper and lower limbs. He walks with a limp on the left side. It is difficult for him to focus his eyes on any object and he sees double if not wearing glasses. He will continue to suffer pain and discomfort practically all of his life. His present condition is permanent because the damaged brain cells cannot, of course, be regenerated. The Plaintiff has a normal life expectancy of about 30 years. He is not capable of any sustained physical effort. The Plaintiff certainly cannot do the work of a carpenter although he could engage in a light sedentary occupation. Unfortunately the Plaintiff has not the educational background for say, a part-time clerical post even assuming he were mentally capable of such work. It will not be easy for the Plaintiff to obtain suitable light employment and the returns will be meagre. At the same time I do not think it can be said that he is totally without earning capacity although I stress that his earning capacity has been very considerably reduced by reason of this accident.

Only limited assistance is to be derived from a study of the authorities on the quantum of damages awardable in cases of this nature. However, I do make reference to the cases reported in Chapter 12 of *Kemp & Kemp The Quantum of Damages* 2nd Edition, Volume I at pages 198-242.

Taking into account all the relevant circumstances including damages for pain and suffering, I have arrived at a figure of £8,250 as general damages. Accordingly judgment is entered for the Plaintiff in the sum of £8,250 plus £515 special damages viz. £8,765, and costs.

Judgment for the Plaintiff.