

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ FAO No. 207/2000

Judgment delivered on: February 28, 2008

Rajender Kumar

..... Appellant.

Through: Mr.J.S. Kanwar, Advocate

versus

Ashok Kumar & Ors.

..... Respondents

Through: Mr.Kamal Deep for the respondent no.3.

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR,

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| 1. | Whether the Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. | To be referred to Reporter or not? | Yes |
| 3. | Whether the judgment should be reported in the Digest? | Yes |

KAILASH GAMBHIR, J. Oral:

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The present appeal arises out of the award dated 5.10.1999 wherein the tribunal awarded a sum of Rs. 25,000/- as compensation along with interest @ 12% per annum.

The brief facts of the case inter alia are that on 11.5.93, the appellant along with other persons were going on the rickshaw and when they reached near General Hospital Road in front of Kabari Bazar, they were hit by truck No. DHL-4937, which was being driven by the driver in rash and negligent manner. Due to that impact, the appellant along with other occupants fell down from the rickshaw and received injuries.

The counsel for the appellant has confined his arguments to claim enhancement of compensation amount only under the head of pain and sufferings.

Counsel for the appellant contends that inadequate amount of Rs.5000/- has been awarded by the Tribunal towards pain and sufferings. Counsel for the appellant contends that the appellant injured has received multiple injuries like fracture of left side ribs and left acromion and fracture of upper border of left scapula and also received injuries on his chest, head, shoulder and spine and a tube was also inserted in his stomach. Counsel further contends that the appellant remained admitted in the hospital for about one year, right from the date

of the accident. Counsel thus sought to contend that the appellant has suffered enormous pain and agony during the said period of one year. Counsel contends that ignoring the said multiple injuries suffered by the appellant, the Tribunal has granted a meager amount towards pain and sufferings.

Per contra Mr. Kamaldeep, counsel for the respondent no.3 contends that keeping in view the value of the money on the relevant date of passing of the award in the year 1999, no fault can be found with the grant of compensation of Rs.5000/- towards pain and sufferings. He further contends that amount of Rs.5000/- may look meager keeping in view the present scenario.

I have heard learned counsel for the parties and have perused the record.

It is not in dispute that the appellant had received multiple injuries on various parts of his body and he remained under treatment in GTB Hospital from 12.5.93 to 7.7.93 then from 16.7.93 to 15.9.93 and again from 26.2.294 to 18.5.94. Although, the appellant did not suffer from any kind of

permanent or temporary disability due to the said injuries received by him in the said accident, yet due to multiple injuries suffered by him he had to remain under treatment for the aforesaid long period. Under Section 168 of the Motor Vehicles Act, the compensation to be awarded in favour of the victim of the accident has to be just, fair and reasonable and considering the intendment of the legislation, I am in agreement with the contention of the counsel for the appellant that award of Rs.5000/- towards pain and sufferings is not adequate amount. The said amount of Rs.5000/- is enhanced to Rs.15,000/- considering the fact that the present award was passed in the year 1999 and therefore, not much enhancement can be granted to the appellant under this head, keeping in view the value of the currency prevailing in the relevant period.

Let differential amount be paid to the appellant by the respondent along with interest @ 6% p.a. from the date of filing of the petition till realization.

With these directions, the appeal stands disposed of.

February 28, 2008
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KAILASH GAMBHIR, J