

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **MAC App. No.278/2004**

% Date of decision: 17th September, 2008

SONU ... APPELLANT
Through: Mr. S. N. Parashar, Advocate

Versus

1. DELHI TRANSPORT CORPN.

2. SURINDER KUMAR ...RESPONDENTS
*Through: Mr. Ravi Kant Jain, Proxy counsel for
Mr. Jasmine Ahmed, Adv.*

CORAM:
HON'BLE MR. JUSTICE MOOL CHAND GARG

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|----|---|-----|
| 1. | Whether the Reporters of local papers may be allowed to see the judgment? | No |
| 2. | To be referred to Reporter or not? | No |
| 3. | Whether the judgment should be reported in the Digest? | Yes |

MOOL CHAND GARG, J. (ORAL)

1. By way of the present appeal, the appellant seeks to challenge the impugned award dated 16th January, 2004, whereby in a case of road accident under which the appellant suffered 30% disability on account of rash and negligent act due to involvement of a DTC bus Bearing No.DEP-8691, has only been awarded a compensation to the tune of Rs.85,500/- detailed below:-

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|----|--|-------------|
| 1. | Expenses incurred on purchase of medicines etc. | Rs.5,000/-. |
| 2. | Expenses incurred on conveyance and Special diet. | Rs.3,000/-. |
| 3. | For 30% permanent disability suffered by the petitioner. | Rs.67,500/- |

4. For pain and sufferings and
Loss of amenities.

Rs.10,000/-

Rs.85,500/-

2. It is submitted by learned counsel for the appellant, that the compensation awarded to the appellant is highly inadequate relying upon another judgment of this Court delivered by Kailash Gambhir, J. in MAC App. No.204/2004 decided on 26th April, 2004. It is submitted, that the amount of compensation needs to be increased substantially.

3. In the case cited by learned counsel for the appellant, in similar circumstances, when the appellant who was also aged about 9 years (in the present case, the appellant was aged about 8 years at the time of accident) and had suffered injuries in his right leg and a steel rod was inserted and his disability was assessed to the extent of 30%, Justice Kailash Gambhir enhanced the award in respect of pain and suffering from Rs.20,000/- to Rs.75,000/-. The total compensation was awarded at Rs.1,25,660/-.

4. On the other hand, learned counsel appearing for the respondent submits that in the present case, towards permanent disability higher amount i.e. Rs.67,500/- has already been granted by the Tribunal to the appellant. Moreover, in the present case, the accident took place on 1st April, 1992 and therefore the Tribunal while awarding the compensation has adequately compensated the appellant.

5. However, to my mind, the amount awarded to the petitioner on the ground of pain and suffering is highly inadequate and required to be enhanced to Rs.50,000/-.

6. Taking into consideration that the appellant/injured has taken treatment in the hospital for six months and is still under treatment, I

also enhanced the amounts for the purchase of medicines, expenses incurred on conveyance and special diet, to Rs.20,000/- each.

7. Thus total amount of compensation is enhanced from Rs.85,500/- to Rs.1,57,500/-.

8. Needless to say, this amount will carry interest @ 9% p.a. from the date of presentation of the petition till realization of the amount.

9. Any amount already paid to the petitioner shall be adjusted from the amount awarded and that shall be paid within a period of three months from today failing which further interest @ 12% shall be payable on the award.

10. The appeal stands disposed of accordingly.

11. Trial court record be sent back.

September 17, 2008
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MOOL CHAND GARG, J.