

IN THE HIGH COURT OF DELHI AT NEW DELHI

MAC.APP. No. 305/2005

Judgment delivered on: February 7, 2008

Gaurav Gupta

..... Appellant.

Through: Mr. Saurabh Tiwari, Adv.

versus

Madan Singh & Ors.

..... Respondents

Through: Ms. Manjusha Wadhwa, Adv.

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? | No |
| 2. To be referred to Reporter or not? | No |
| 3. Whether the judgment should be reported in the Digest? | No |

KAILASH GAMBHIR, J. Oral:

By way of the present appeal the appellant seeks to challenge the impugned award whereby a meager amount of Rs. 5,500/- has been awarded in favour of appellant. Brief summary of the facts to deal with the contentions of the parties are as under:-

On 11.10.1993 at about 11:40 pm, Shri Gaurav Gupta was going from Civil Lines to Pitampura on motor cycle bearing registration no. DL 1SF 2727 being driven by his friend Shri Shashi Kant on correct side of the road at a slow speed. When they reached near Transport Authority, Rajpur Road, a motadoor bearing registration no. HNG 785 coming from the opposite direction came on the wrong side of the road and hit the motor cycle causing injuries to the appellant and his friend.

Counsel for the appellant contends that the appellant had suffered fracture on his nasal bone due to which he remained hospitalized initially in Hindu Rao Hospital w.e.f. 11.10.1993 till 12.10.1993. The petitioner was not fully recovered after the treatment given to him in Hindu Rao Hospital therefore, he was again admitted in Ganga Ram Hospital for getting further treatment wherein he remained admitted w.e.f. 15.10.1993 to 17.10.1993. Counsel further contends that the appellant had received a scar on the left side of the nose and eyebrow also, therefore, the appellant was also entitled to be compensated for disfigurement of his face due to scar. Counsel for the appellant further contends that the tribunal has not granted any compensation towards pain and sufferings and has granted a meagre amount towards special diet and conveyance. Counsel further contends that the appellant was doing his Bachelors Degree in Arts and he has lost his one precious year due to the said injuries sustained by him.

Per contra, Ms. Manjusha Wadhwa, counsel for the respondent on the other hand contends that the appellant failed to lead any evidence to prove his entitlement to the grant of the amount of compensation claimed by him in the claim petition. Counsel further contends that in the absence of any evidence led by the appellant still the Tribunal has granted fair and just compensation. Counsel further contends that no evidence was placed on record so as to prove his treatment in Ganga Ram Hospital from the period 15.10.1993 till 17.10.1993 or even to prove that his one year of B.A. was lost due to the injuries sustained by him in the accident. Counsel for the respondent thus justified the findings of the Tribunal in granting Rs. 5,500/- in favour of the appellant.

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

It is not in dispute that the appellant had received the following injuries:

1. CLW 1 inch X 1/4 inch left eyebrow.
2. CLW 1/2 inch X 1/6 inch on nasal bridge, left side.
3. CLW above left nostrill.
4. Two abrasions, 1/4 inch X 1/4 inch each

It is also not in dispute that he was admitted in Hindu Rao Hospital from 11.10.1993 to 12.10.1993. It is further not in dispute that the appellant had received a slight scar on the left side of the nose, as the said

fact of sustaining scar by the appellant was duly observed by the Tribunal itself although as per the court observations such a scar cannot be treated as a case of facial disfigurement. It is no doubt correct that the appellant has miserably failed to prove on record the actual medical expenses incurred by him towards medical treatment. He has also failed to prove on record that the said injuries led to deprivation of his studies due to which, his precious one year was wasted. He also failed to prove on record that due to the said injuries he was not able to attend his office regularly. Except the bald testimony of the appellant and the records of the said two hospitals nothing else has been placed on record by the appellant to substantiate the amount of claim as claimed in the claim petition. In any event of the matter, award of Rs. 5,500/- cannot be justified as the infliction of the said injuries on the appellant, as stated above, are not in dispute. The Tribunal has also observed that the appellant has received a small scar on his face and that in itself is a sufficient circumstance to suitably compensate the appellant. I, therefore, award the amount of a sum of Rs. 15,000/- towards the injuries suffered by the appellant and enhance the amount of Rs. 2,500/- to Rs.10,000/- towards pain and suffering and agony. The Tribunal has awarded a sum of Rs. 1,000/- towards conveyance and special diet. The same is also enhanced to Rs. 3,000/-. Respondent shall now be liable to pay the differential amount of compensation in sum of Rs. 24,500/- along with up to date interest @ 7.5% per annum from the date of

filing of the petition till its realization.

With these directions, the present appeal is disposed of.

February 07, 2008

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KAILASH GAMBHIR J.