

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ MAC APP No. 950/2005

Judgment delivered on: February 21, 2008

Shri Gopal Krishan Sharma Appellant.
Through: Mr. Purushottam Singh, Adv.

versus

Shri Anil Kumar & Ors. Respondents
Through: Mr. D.K. Sharma, Adv. for R-3

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR,

- | | | |
|----|---|-----|
| 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:

*

Counsel for the appellant contends that the appellant would be contented if the appellant is paid an amount of Rs.2,00,000/- for buying an artificial limb. In

support of his contention, the appellant produced a photocopy of the quotation given by M/s Otto Bock Pvt. Ltd original of which has been filed by the appellant before the Mediation Cell.

I have perused this quotation. Price of the artificial limb has been indicated at Rs.2,47,000/-. Counsel states that since the appellant has already been paid Rs. 50,000/- for buying artificial limb, the appellant shall only claim the remaining amount for buying the said limb.

Mr. D.K. Sharma counsel appearing for the respondent, on the other hand, states that the appellant did not place any evidence on record to show that the artificial limb would cost such an amount, and therefore, in the absence of any evidence on record, the Tribunal has rightly granted a sum of Rs.50,000/- for buying artificial limb.

I have heard learned counsel for the parties. Counsel for the appellant has very fairly stated that he will not agitate on other grounds to claim enhancement in compensation amount but will confine his arguments only with regard to entitlement of the appellant for buying an artificial limb.

Counsel for the appellant submits that the appellant is not in a position to buy that artificial limb as the cost of this artificial limb is quite high. Counsel further states that the appellant is suffering immensely due to the amputation of his left leg above knee and therefore, purchase of the said limb so as to make life of the appellant comfortable and smoother is immediately required.

I have perused the quotation given by the said company Otto Bock Pvt Ltd. Price for the said artificial limb is given at Rs.2,47,000/-.

Counsel for the appellant has also proposed that the appellant does not mind if the respondent insurance company directly provide an artificial limb of good quality from any other company.

In the above facts and circumstances, I feel that in the interest of justice, some modification has to be made in enhancing compensation so as to enable the appellant to purchase an artificial limb. The Tribunal had also taken judicial notice of this fact that the appellant had to spend some amount for buying an artificial limb. In the affidavit filed by the appellant before the Tribunal, the appellant has claimed that such an artificial limb would require replacement after every five years. Without going into that issue, let the respondent pay an additional amount of Rs.2,00,000/- to the appellant so as to enable the appellant to immediately buy artificial limb from the said company. The respondent insurance company will be at liberty to verify authenticity and genuineness of the quotation submitted by the appellant

and if the respondent insurance company feel satisfied that the said company is engaged in manufacturing and trading of artificial limbs and are providing good quality of artificial limbs, then without raising any objection to the said quotation, the respondent shall pay the said amount immediately and in any case not later than a period of four weeks from today. The respondent shall complete the inquiry into the said quotation within three weeks and pay the said amount. In case the respondent finds that it can get artificial limb of the similar or good quality from some other company then decision to that effect shall be taken in consultation with the appellant and his counsel within the said period. In any event of the matter, the amount shall be released by the respondent directly to the company for purchasing the artificial limb so as to ensure that the appellant is at least able to walk properly with the help of the artificial limb and he is saved from further agony, trauma and pain.

With the above directions, the appeal is disposed
of.

Order Dasti.

February 21, 2008
'raj'

KAILASH GAMBHIR, J