

IN THE HIGH COURT OF DELHI AT NEW DELHI

MAC APP No. 630/2007

Judgment delivered on: February 14, 2008

Shri Harvinder Singh Appellant.

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

versus

Rajesh Kumar Saluja & Ors. Respondents

Through: Nemo

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:

By way of the present appeal the appellant has

sought to challenge the award dated 30.4.2007, whereby the Tribunal has awarded compensation of Rs.1,56,936/- in favour of the appellant.

Before dwelling on the merits of the case, it would be relevant to reproduce the facts of the present case.

On 18.2.2005 at about 1.40 P.M. the injured appellant was driving a motorcycle and when he reached at DPS School, Main Road Dwarka, and was turning towards the main road, a Tata Sumo bearing registration no. DL6C-A-5881, being driven by its driver in rash and negligent manner hit the motorcycle of the appellant due to which the appellant fell down on the road and sustained serious injuries all over the body including multiple fracture on his left leg.

Mr.S.N. Parashar, counsel for the appellant contends that the Tribunal has not awarded any amount towards loss of salary of the appellant during the entire leave period. Counsel for the appellant further contends that the appellant was earning a sum of Rs.17,999/- per

month and he remained on leave for a period of 281 days, therefore, he would have become entitled to amount of Rs. 1.50 lacs towards the loss of salary. Counsel for the appellant also contends that the appellant remained confined to bed almost for a period of nine months and has suffered lot of pain and sufferings during this period as he had received crush injury in his left leg. Counsel contends that left leg of the appellant was operated whereby steel rod and screws were implanted in his leg. Counsel for the appellant contends that appellant shall have to undergo another operation for removal of the steel rod and therefore, till the rod and screws are removed from left leg, the injured would continue to suffer pain and agony. Counsel thus contends that the Tribunal has awarded a very meager amount of Rs.5,000/- towards pain and sufferings and loss of amenities. Counsel for the appellant contends that even for conveyance and special diet, compensation of Rs.10,000/- is not adequate.

The matter is listed for final disposal, but nobody

has chosen to appear from the side of the respondent.

I have heard counsel for the appellant and have perused the record.

Perusal of the award shows that the appellant received crush injuries in his left leg and he remained admitted in Mata Chanan Devi Hospital, where he was given first aid, thereafter, he was shifted to Trauma Centre and he remained admitted there up to 24.2.2005 and after his discharge from the Trauma Centre he was shifted to Doraha, Distt. Ludhiana where his treatment continued. Thereafter, he was admitted in Christan Medical College from 8.3.2006 to 14.3.2005 and his left leg was operated upon and a steel rod and screws were implanted. He was again admitted in the said hospital on 19.7.2005 for removal of rod and was discharged on 20.7.2005. It is not in dispute that the appellant remained on medical leave from 18.2.2005 to 26.11.2005, i.e. for a period of about 281 days and the amount of compensation for the entire leave period would come to Rs.1.50 lac as per Exhibit

PW3/A. In any event of the matter, the case of the appellant before the Tribunal was that he was not paid salary for the entire leave period. The Tribunal has granted a sum of Rs.75,000/- after taking into consideration the fact that for availing such a long leave the appellant might be deprived to avail medical leave in future. Considering the fact that the appellant has failed to prove that he was deprived of the entire salary during the leave period, I do not find that there is any infirmity in the impugned award, whereby the Tribunal has granted compensation of Rs.75,000/- towards the loss of salary for the leave period. However, as regards the compensation granted towards pain and sufferings, I feel that the same may not be adequate as the appellant remained confined to bed for a period of nine months and underwent surgery, whereby steel rod and screw were implanted in his left leg. Furthermore, the appellant may have to undergo another operation for the removal of steel rod and screws from his left leg and till then also he may continue to suffer pain and

agony. Considering the pain and agony already suffered by the appellant during nine months period and which pain he may continue to suffer as aforesaid, I enhance the amount of Rs.25,000/- to Rs.50,000/-.

The appellant has already received the compensation amount as awarded by the Tribunal. Let differential amount be paid by the respondent to the appellant along with interest @7.5 % p.a. from the date of filing of the petition till realisation.

With these directions, appeal stands disposed of.

February 14, 2008
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KAILASH GAMBHIR J.