

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.4/2004**

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Date of decision: 25th August, 2009

SUDESH MARWAH Appellant
Through : Ms. Maldeep Sidhu, Adv.

versus

VIRPAL & ORS Respondents
Through : Mr. D.K. Sharma, Adv.

CORAM :-
THE HON'BLE MR. JUSTICE J.R. MIDHA

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

JUDGMENT (Oral)

1. The appellant has challenged the award of the learned Tribunal whereby compensation of Rs.25,000/- has been awarded to the appellant. The appellant seeks enhancement of the award amount.

2. The accident dated 21st May, 1982 resulted in grievous injuries to the appellant. The appellant suffered compound fracture of pelvis and multiple injuries including groin and haematoma left thigh. The appellant remained hospitalized for about one month and was bed ridden for 1-1/2 years. The appellant was carrying on the tailoring work and earning Rs.800/- per month. She could not carry out the tailoring work for about

1-1/2 years. The learned Tribunal awarded Rs.3,000/- towards the loss of income by taking the income of the appellant to be Rs.500/- for a period of six months. Rs.2,000/- has been awarded towards the expenditure of medicines and conveyance and Rs.20,000/- has been awarded on account of pain and suffering. The total compensation awarded is Rs.25,000/-

3. Considering the facts and circumstances of this case, the compensation awarded by the learned Tribunal is grossly inadequate. The appellant remained hospitalized for one month and was bed ridden for about 1-1/2 years and could not work and earn for the said period. The learned Tribunal has not given any reason for awarding compensation for only six months instead of 1-1/2 years. The compensation for loss of income is, therefore, enhanced from Rs.3,000/- to Rs.12,000/- taking the monthly income of the appellant to be Rs.800/- per month for 1-1/2 years. The learned Tribunal has awarded Rs.2,000/- towards the medical expenditure which is also on a lower side. Considering the injuries suffered by the appellant and the period of hospitalization of one month, the compensation for medical expenditure is enhanced from Rs.2,000/- to Rs.5,000/-. The learned Tribunal has awarded Rs.20,000/- for pain and sufferings which is just, fair and reasonable. However, the appellant is also entitled to compensation for loss of amenities of life which is assessed to be Rs.10,000/-. The appellant was immobilized due to the accident and, therefore, the compensation of Rs.10,000/- is awarded towards the conveyance and Rs.5,000/- towards the special diet.

The total compensation awarded is Rs.62,000/-.

4. The appeal is allowed and the award amount is enhanced from Rs.25,000/- to Rs.62,000/-. The learned Tribunal has awarded interest at the rate of 9% per annum which is not disturbed on the original award amount of Rs.25,000/-. However, on the enhanced award amount, the rate of interest shall be 7.5% per annum from the date of filing of the petition till deposit.

5. The enhanced amount along with interest be deposited with the UCO Bank, Delhi High Court Branch within 45 days.

6. Upon the aforesaid deposit being made, the UCO Bank is directed to release Rs.50,000/- to the appellant by transferring the said amount to her Saving Bank Account.

7. The remaining amount be kept in the fixed deposit for a period of five years on which the interest shall be paid monthly by automatic credit of interest in the Savings Account of appellant.

8. Withdrawal from the aforesaid account shall be permitted to appellant after due verification and the Bank shall issue photo Identity Card to appellant to facilitate identity.

9. The original Fixed Deposit Receipt shall be retained by the Bank in the safe custody. However, the original Pass Book shall be given to appellant along with the photocopy of the FDR.

10. The original Fixed Deposit Receipt shall be handed over to the appellant at the end of the fixed deposit period.

11. No loan, advance or withdrawal shall be allowed on the said Fixed Deposit Receipt without the permission of this Court.

12. On the request of the appellant, the Bank shall transfer the Savings Account to any other branch of UCO Bank in Delhi according to the convenience of the appellant.

13. The appellant shall furnish all the relevant documents for opening of the Saving Bank Account and Fixed Deposit Account to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi.

14. On the direction of this Court, the appellant was examined by BLK Memorial Hospital. The appellant was admitted at BLK Memorial Hospital on 29th July, 2009 upto 3rd August, 2009. The Hospital conducted all necessary pathological tests, radiology tests, ECG, bone scan, parathyroid scan, x-ray and was examined by the expert doctors who have given their report as to her medical condition and treatment. According to the Hospital, the appellant is suffering from severe osteomalacia and her condition is treatable and the monthly expenditure on hospital visit and rehabilitation is Rs.2,000/- and on diet and medicine is Rs.2,500/-. The appellant may also require hip replacement on both the sides. The hospital has submitted the report on 8th August, 2009. The hospital has raised a bill for Rs.28,233/- which has been sent along with the report. This is a legal aid matter. The cost of examination and report of BLK Memorial Hospital is assessed to be Rs.20,000/- which shall be paid by Delhi Legal Services Authority directly to BLK Memorial Hospital.

15. This Court appreciates the assistance rendered by Ms. Maldeep Sidhu and Mr. D.K. Sharma, counsel for the parties.

16. Copy of the order be given dasti to counsel for both the parties under the signatures of the Court Master.

17. Copy of this order be also sent to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) through the UCO Bank, High Court Branch under the signature of Court Master.

AUGUST 25, 2009
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J.R. MIDHA, J