

**IN THE HIGH COURT OF DELHI AT NEW DELHI****+ MAC.APP.No.404/2004**

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Date of decision: 27<sup>th</sup> November, 2009

ASHOK KUMAR BHARDWAJ ..... Appellant  
Through : Mr. L.K. Tyagi, Adv.

versus

DINESH KUMAR & ORS. .... Respondents  
Through : Mr. Manoj Ranjan Sinha, 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 appellants have challenged the award of the learned Tribunal whereby compensation of Rs.1,45,848/- has been awarded to the appellants. The appellants seek enhancement of the award amount.

2. The accident dated 1<sup>st</sup> July, 1996 resulted in grievous injuries to the appellant. The appellant's right leg was crushed under the front right tyre of the offending truck. The appellant was taken to Ganga Ram Hospital where he remained admitted from 1<sup>st</sup> July, 1996 to 5<sup>th</sup> August, 1996. The appellant's bone of right leg was exposed and he also suffered injury to popliteal. The appellant has suffered permanent disability which has been

assessed by the Board to be 25% as per Ex.PW6/1.

3. The learned Tribunal has awarded Rs.1,45,848/- to the appellant. The learned counsel for the appellant has challenged the impugned award on the ground that the non-pecuniary compensation as well as the compensation for loss of income due to permanent disability be enhanced.

4. The learned Tribunal has awarded Rs.15,000/- towards pain and suffering. No compensation has been awarded for loss of amenities of life and disfiguration. Considering the nature of injuries suffered by the appellant as well as the treatment undertaken by him and the disability of 25% suffered by him, the compensation for pain and suffering is enhanced from Rs.15,000/- to Rs.25,000/-. Rs.25,000/- is awarded for loss of amenities of life and Rs.20,000/- is awarded for disfiguration. The total compensation towards non-pecuniary damages is computed to be Rs.70,000/- (Rs.25,000 + Rs.20,000 + Rs.25,000).

5. With respect to the loss of income due to permanent disability, the learned Tribunal awarded a lump-sum compensation of Rs.15,000/-. The learned Tribunal has not computed the loss of income according to the well settled principles of law. The appellant was employed with M/s Bharat Rasayan Finance Company at the time of the accident and was drawing a salary of Rs.2,500/- per month which was proved by Ex.PW4/1 and Ex.PW4/2. The appellant was aged 22 years at the time of the accident and, therefore, 50% is added towards future prospects and the multiplier of 18 is applied following the

judgment of Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) Scale 129**. The appellant has suffered 25% permanent disability in respect of right limb. The loss of earning capacity due to permanent disability is taken to be 15% and the loss of income due to the permanent disability is assessed to be Rs.1,21,500/- (Rs.2,500 + 50% on account of future prospects x 12 x 18 x 15%). The compensation for loss of income due to permanent disability is enhanced from Rs.20,000/- to Rs.1,21,500/-. The learned Tribunal has awarded Rs.5,000/- towards loss of income for two months and Rs.15,000/- for permanent disability. Both these heads are taken to be towards loss of income due to permanent disability and shall be treated to be included in Rs.1,21,500/- awarded for loss of income.

6. The appellant is entitled to total compensation of Rs.3,02,348/-. The break-up of the same is given hereinunder:-

|              |                                                             |                     |
|--------------|-------------------------------------------------------------|---------------------|
| (i)          | Expenses on medical treatment                               | : Rs.90,848/-       |
| (ii)         | Expenses on conveyance                                      | : Rs.10,000/-       |
| (iii)        | Expenses on special diet                                    | : Rs.10,000/-       |
| (iv)         | Compensation for pain and suffering                         | : Rs.25,000/-       |
| (v)          | Compensation for loss of amenities of life                  | : Rs.25,000/-       |
| (vi)         | Compensation for disfiguration                              | : Rs.20,000/-       |
| (vii)        | Compensation for loss of income due to permanent disability | : Rs.1,21,500/-     |
| <b>Total</b> |                                                             | <b>: 3,02,348/-</b> |

7. The appeal is allowed and the award amount is enhanced from Rs.1,45,848/- to Rs.3,02,348/-. The learned Tribunal has awarded interest @9% per annum which is not disturbed on the original award amount of Rs.1,45,848/-. 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 realization. After making the payment of enhanced award amount along with interest to the appellant, respondent No.3 shall be entitled to recover the same from respondents No.1 and 2.

8. The enhanced award amount along with interest be deposited by respondent No.3 with UCO Bank, Delhi High Court Branch A/c Ashok Kumar Bharadwaj by means of a cheque through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) within 30 days.

9. Upon the aforesaid enhanced award amount being deposited, the UCO Bank is directed to release Rs.1,00,000/- to the appellant by transferring the same to his Saving Bank Account.

10. The remaining amount be kept in fixed deposit for a period of three years on which monthly interest be paid to him.

11. The interest on the aforesaid fixed deposit shall be paid monthly by automatic credit of interest in the Savings Account of the appellant.

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

13. No cheque book be issued to the appellant without the permission of this Court.

14. The original Pass Book shall be given to the appellant along with the photocopy of the FDRs.
15. The original fixed deposit receipt shall be handed over by the Bank to the appellant after the expiry of the period of FDR.
16. No loan, advance or withdrawal shall be allowed on the said fixed deposit receipt without the permission of this Court.
17. Half yearly statement of account be filed by the Bank in this Court.
18. On the request of the appellant, the Bank shall transfer the Savings Account to any other branch of UCO Bank according to the convenience of the appellant.
19. 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 (Mobile No. 09310356400).
20. Copy of the order be given dasti to counsel for both the parties under the signatures of the Court Master.
21. 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.

**J.R. MIDHA, J**

**NOVEMBER 27, 2009**

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