

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.67/2004**

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Date of decision: 3rd September, 2009

SUSHMA RANI AHUJA Appellant
Through : Mr. Ashok Popli, Adv.

versus

NEPAL SINGH & ORS. Respondents
Through : Ms. Hetu Arora, Adv. for R - 3

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.8,885/- has been awarded to the appellant. The appellant seek enhancement of the award amount.

2. The accident dated 1st August, 1995 resulted in grievous injuries to the appellant. The appellant suffered fracture of left arm which was put under plaster and the appellant remained under treatment for about four months. The appellant came in the witness box as PW-1 and proved her treatment record as Ex.PW1/1 to Ex.PW1/5. The medical expenditure was proved as Ex.PW1/6 to Ex.PW1/23. The expenditure on conveyance was proved as Ex.PW1/24 to Ex.PW1/27. The appellant was working

as teacher in Government Girls Senior Secondary School, Jahangir Puri at the time of the accident and she remained on leave initially for a continuous period of 15 days and thereafter intermittently for 15-20 days. The appellant also took earned leave from 1st August, 1995 to 9th August, 1995.

3. The learned Tribunal awarded Rs.2,910/- towards the loss of earning of 15 days, Rs.2,100/- towards the medical expenses, Rs.1,375/- towards the conveyance, Rs.1,500/- towards pain and sufferings and Rs.1,000/- towards special diet. The total compensation awarded is Rs.8,885/-

4. The learned counsel for the appellant seeks enhancement of the pecuniary as well as non-pecuniary compensation.

5. With respect to pecuniary compensation, the learned Tribunal has awarded compensation on the basis of evidence led by the appellant and, therefore, the same does not call for any interference. However, with respect to the non-pecuniary compensation, the learned Tribunal is in error in awarding grossly inadequate compensation for the pain and suffering. Considering that the appellant suffered fracture of left arm and her arm was under plaster for three months, she remained under treatment for four months and took leave for more than one month, the compensation for pain and suffering is enhanced from Rs.1,500/- to Rs.15,000/- The appellant is also entitled to compensation for loss of amenities of life for which further amount of Rs.10,000/- is awarded to the appellant.

6. The appellant is entitled to total compensation of Rs.32,385/- (Rs.2,910 + Rs.2,100 + Rs.1,375 + Rs.1,000 + Rs.15,000 + Rs.10,000).

7. The appeal is allowed and the award amount is enhanced from Rs.8,885/- to Rs.32,385/-. The learned Tribunal has awarded interest at the rate of 9% per annum which is not disturbed on the original award amount of Rs.8,885/- 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.

8. The enhanced award amount along with interest be deposited by respondent No.3 with the learned Tribunal within 30 days. Upon such deposit being made, the learned Tribunal is directed to release the same to the appellant without any restriction of fixed deposit.

9. Copy of this order be given 'Dasti' to learned counsel for both the parties under the signature of Court Master.

SEPTEMBER 03, 2009
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J.R. MIDHA, J