

OIC LTD.

..... Appellant

Through : Ms. Rajdipa Behura, Adv.

versus

SANJAY VERMA

..... Respondent

Through : None.

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.3,59,900/- has been awarded to claimant/respondent Nos.1(i), (ii) and (iii).

2. The accident dated 20th April, 2001 resulted in the grievous injuries to Sanjay Verma who suffered fracture femur of both hands and was admitted in Apollo Hospital. The learned Tribunal awarded Rs.1,69,900/- towards medical expenses, Rs.70,000/- towards loss of earning, Rs.1,00,000/- towards pain, sufferings and mental agony, Rs.10,000/- towards special diet and Rs.10,000/- towards conveyance.

The total compensation awarded is Rs.3,59,900/-.

3. The appellant has challenged the impugned award on the following two grounds:-

- (i) The amount awarded by the learned Tribunal for medical expenses is on a higher side.
- (ii) The compensation of Rs.1,00,000/- for pain, sufferings and mental agony is also on a higher side.

4. With respect to the compensation for medical expenses, the amount of Rs.1,00,000/- awarded by the learned Tribunal is based on the proof of medical expenditure submitted by the claimants and, therefore, the finding of the learned Tribunal does not call for any interference.

5. With respect to the compensation of Rs.1,00,000/- awarded by the learned Tribunal for pain, sufferings and mental agony, there was no permanent disability suffered by the claimant and, therefore, non-pecuniary compensation is on a higher side. The non-pecuniary damages are conventional in nature and, therefore, uniformity should be maintained in awarding non-pecuniary compensation.

6. The claimants have been duly served but there is no appearance on their behalf.

7. Considering the facts and circumstances of this case, the compensation for pain, suffering and mental agony is reduced from Rs.1,00,000/- to Rs.50,000/-.

8. The appeal is allowed and the award amount is reduced from Rs.3,59,900/- to Rs.3,09,900/- along with interest @ 7.5% per annum.

9. The learned counsel for the appellant submits that the appellant has deposited Rs.3,09,900/- along with interest thereon with the learned Tribunal on 17th March, 2009 and the same has been released to the claimants.

10. In that view of the matter, the statutory amount deposited by the appellant be returned back to the appellant through counsel within four weeks.

11. Copy of this order be given 'Dasti' to learned counsel for the appellant under signature of the Court Master.

J.R. MIDHA, J

DECEMBER 03, 2009

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