

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.702/2005**

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Date of decision: 25th November, 2009

MASTER SINTU

..... Appellant

Through: Mr.Vinay Kumar Jha, Adv.

versus

OM PRAKASH & ORS.

..... Respondents

Through: Ms.Pramila Singh, Proxy for
Mr. Kamaldeep, 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 his claim petition was dismissed.

2. The accident dated 24th May, 2003 resulted in the grievous injuries to appellant No.1. Appellant No.1 was aged seven years at the time of the accident. The appellant was walking on the road along with his parents near musical fountain, Model Town when RTV bus No.DL1V-7359 hit the appellant, who suffered grievous injuries, namely, temporal bone fracture, fracture on right leg and aberrations and blunt injuries all over the body.

3. The appellant was initially taken to Navrang Hospital where he was referred to Hindu Rao Hospital and from there he was further referred to ESI hospital and finally to Lok Nayak Hospital. The learned Tribunal dismissed the claim petition noting some contradiction in the statement of PW-3 and the FIR and also on the ground that the appellant has not placed on record and proved the documents relating to the treatment by the appellant.

4. The learned Tribunal has not conducted any inquiry as contemplated under Section 168 of the Motor Vehicles Act. It has time and again been emphasized by this Court that Section 168 of the Motor Vehicles Act provides that the learned Tribunal shall conduct an inquiry. The duty has been cast on the learned Tribunal to ascertain the relevant facts and then pass the award. Section 169 of the Motor Vehicles Act further provides that the inquiry shall be summary in nature and the Tribunal shall formulate such procedure as it thinks fit.

5. The appellant is a minor child who was seven years at the time of the accident. The appellant belongs to the lowest strata of the society. Even if there is some infirmity in the evidence lead by the appellant, the learned Tribunal is not absolved from its duty of conducting the inquiry in accordance with law. The Tribunal could have summoned the Investigating Officer, record of the criminal case as well as records from the concerned hospitals to conduct the inquiry.

6. The appeal is allowed and the impugned award is set aside and the case is remanded back to the learned Tribunal for

conducting a proper inquiry in accordance with law. The appellant is directed to appear before the learned Tribunal on 18th December, 2009.

7. The LCR be sent back to the learned Tribunal forthwith.

8. Considering that the accident relates to the year 2003, the learned Tribunal is directed to complete the inquiry within a period of six months.

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

NOVEMBER 25, 2009
s.pal

J.R. MIDHA, J