

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.292/2008**

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Date of decision: 7th September, 2009

BABLU SINGH

..... Appellant

Through : Mr. R.K. Bachchan, Adv.

versus

DHARMENDRA & ORS

..... Respondents

Through : Mr. Ram N. Sharma, Adv.
for R – 3.**CORAM :-****THE HON'BLE MR. JUSTICE J.R. MIDHA**

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

JUDGMENT (Oral)

1. The appellant has challenged the award of the learned Tribunal whereby compensation of Rs.5,67,465/- has been awarded to the appellant. The appellant seeks enhancement of the award amount.

2. The accident dated 13th October, 2004 resulted in the grievous injuries to the appellant. The appellant suffered two fractures in the femur of right leg. He underwent operation at LNJP Hospital. The permanent disability of the appellant was assessed to be 88% in respect of the right lower limb and 44% in respect of the whole body. The learned Tribunal has awarded Rs.75,000/- towards pain and suffering, Rs.20,000/- towards special diet and conveyance, Rs.10,000/- towards the attendant,

Rs.1,13,065/- towards the medical expenses, Rs.54,600/- towards loss of earning for the period of treatment, Rs.20,000/- towards the loss of marriage prospects and Rs.2,75,400/- towards the loss of income due to permanent disability. The total compensation awarded is Rs.5,67,465/-.

3. The learned counsel for the appellant submits that the learned Tribunal has not taken the future prospects for the deceased into consideration while awarding the loss of income due to permanent disability. The learned counsel further submits that the compensation has been awarded by taking the permanent disability to be 30% whereas the appellant suffered 88% permanent disability. The learned counsel further submits that the appellant was under treatment for two years but the loss of income has been taken only for one year.

4. With respect to the loss of income due to permanent disability, the learned Tribunal has taken the income of the deceased to be Rs.4,500/- per month proved by PW-2 and Ex.PW2/A. The appellant was aged 22 years at the time of the accident and 50% is added towards the future prospects and the income of the appellant for computation of compensation is taken to be Rs.6,750/- (Rs.4,500 + Rs.2,250).

5. The deceased suffered 88% permanent disability in respect of right lower limb and in respect of the whole body, it was assessed to be 44%. The appellant is present in Court and his injuries have been examined. The appellant has no earning. On query by this Court, the appellant submits that he is learning the

job of mobile repairing and intends to work. Considering the injuries suffered by the appellant, the loss of earning capacity is taken to be 50%. The loss of income due to permanent disability is assessed to be Rs.7,29,000/- ($\text{Rs.6,750} \times 12 \times 18 \times 50\%$). The appellant remained under treatment for a period of two years but his loss of income during treatment has been computed for one year.

6. The appellant has placed on record documents relating to his treatment which are exhibited as Ex.PW1/1 (colly.), Ex.PW1/2 (colly.). There is sufficient material on record to show that the appellant was under treatment for two years. The compensation for loss of income during treatment is enhanced from Rs.54,600/- to Rs.1,08,000/- calculated for a period of two years. The appellant is entitled to total compensation of Rs.10,75,065/- ($\text{Rs.7,29,000} + \text{Rs.1,08,000} + \text{Rs.75,000} + \text{Rs.20,000} + \text{Rs.10,000} + \text{Rs.1,13,065} + \text{Rs.20,000}$).

7. The appeal is allowed and the award amount is enhanced from Rs.5,67,465/- to Rs.10,75,065/-. The learned Tribunal has awarded interest @ 9% per annum on the original award amount of Rs.5,67,465/- which is not disturbed. However, on the enhanced amount of Rs.5,07,600/-, the appellant is entitled to interest @ 7.5% per annum from the date of filing of the petition till realization.

8. The enhanced amount be deposited by respondent No.3 with the learned Tribunal within 30 days.

9. Upon the enhanced award amount being deposited, the

learned Tribunal is directed to release a sum of Rs.50,000/- to the appellant and the remaining amount be kept in fixed deposit for a period of five years on which monthly interest be paid to the appellant. However, no loan, advance or withdrawal be permitted to the appellant without the permission of this Court.

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

SEPTEMBER 07, 2009
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J.R. MIDHA, J