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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ MAC.APP.No.268/2009

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Date of decision: 3rd November, 2009

SHIV LAL

..... Appellant

Through : Mr. Multan Singh, Adv.

versus

CHARAN 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.31,678/- has been awarded to him. The appellant seeks enhancement of the award amount.

2. The accident dated 20th June, 1997 resulted in grievous injuries to the appellant. The appellant suffered fracture on his right leg for which he was treated at AIIMS. The appellant was initially plastered. The appellant is native of Village Baporolli, District Mahendergarh, Haryana and he visited the hospital for treatment from Mahendergarh. The appellant was operated upon and a metal rod was inserted in his right shin which is continuing till date. The appellant remained absent from his duty for about

six months and claimed medical expenses of Rs.15,000/-, conveyance of Rs.9,638/- and loss of Rs.37,350/- due to his leave.

3. The learned Tribunal has awarded Rs.10,000/- towards pain and suffering, Rs.2,000/- towards special diet, Rs.1,000/- towards conveyance and Rs.18,678/- towards loss of income. The total compensation awarded is Rs.31,678/-.

4. The learned counsel for the appellant seeks enhancement of compensation under all the above mentioned heads.

5. With respect to the compensation for loss of income, the learned Tribunal has awarded 50% of the salary of six months on the ground that the appellant has not suffered loss of income as he was a Government servant. However, considering that he could have utilized the leave for some other benevolent purpose, the learned Tribunal awarded 50% of the total salary to the appellant. The findings of the learned Tribunal in this regard are correct and are upheld.

6. With respect to the compensation for pain and suffering, special diet and conveyance, the compensation awarded by the learned Tribunal is on a lower side. Considering that the appellant suffered fracture of his right leg for which he was operated upon and a rod was inserted and he also remained under treatment for about six months, the compensation for pain and suffering is enhanced from Rs.10,000/- to Rs.15,000/-.

7. The learned Tribunal has not awarded any compensation for loss of amenities of life. Rs.10,000/- is awarded towards loss of amenities of life. The compensation of Rs.2,000/- towards special

diet is not disturbed. However, with respect to the compensation towards conveyance, the appellant has proved Ex.CW1/B which are receipts issued by the driver of the vehicle who used to carry the appellant from Mahendergarh to Delhi for treatment. It is stated in the said receipts that distance between Mahendergarh and Delhi is 320 kms. and the driver has charged that conveyance at the rate of Rs.5.30 per km. The receipts totaling Rs.9,368/- have been proved by the appellant which have not been considered by the learned Tribunal. The compensation towards conveyance is, therefore, enhanced from Rs.1,000/- to Rs.9,368/-.

8. The appellant is entitled to total compensation of Rs.55,316/- (Rs.15,000 + Rs.10,000 + Rs.2,000 + Rs.9,638 + Rs.18,678).

9. The appeal is allowed and the award amount is enhanced from Rs.31,678/- to Rs.55,316/-. The learned Tribunal has awarded interest @ 9% per annum which is not disturbed on the original award amount of Rs.31,678/-. 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.

10. Respondent No.3 is directed to deposit the enhanced award amount along with interest with UCO Bank, Delhi High Court Branch A/c Shiv Lal within 30 days.

11. Upon such deposit being made, the UCO Bank is directed to release 50% of the award amount to the appellant by transferring the same to the Saving Bank Account of the appellant.

12. The remaining amount be kept in fixed deposit for a period of two years with cumulative interest.

13. After the payment of the enhanced award amount along with interest, respondent No.3 shall be entitled to recover the same from respondents No.1 and 2 in terms of the original award.

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

J.R. MIDHA, J

NOVEMBER 03, 2009

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