

+ MAC.APP.No.419/2009Date of Decision: 16th November, 2009

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RAKSHIT TOKAS Appellant
Through : Mr. O.N. Sharma, Adv.

versus

JAI PRAKASH & ORS Respondents
Through : Mr. K.L. Nandwani, Adv.
for R-3.

CORAM :-**THE HON'BLE MR. JUSTICE J.R. MIDHA**

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

JUDGMENT (Oral)

1. The appellant has challenged the award of the learned Tribunal whereby compensation of Rs.2,500/- has been awarded to the appellant. The appellant seeks enhancement of the award amount.

2. The accident dated 18th February, 2006 resulted in the injuries to the appellant. The appellant was driving car bearing No.DL-9CH-1896 which met with an accident with tractor bearing No.HR-30D-2346. The accident resulted in the injuries to the appellant and death of appellant's brother Raunak Tokas. The appellant suffered head injuries and splinting fracture of Jaw and breaking of teeth. The appellant

took the treatment from Dr. Sandeep Dahia and from

Madan's Polyclinic, Dental Care Hospital, Lajpat Nagar-II, New Delhi.

3. The appellant came in the witness box as PW-1 and deposed with respect to the injuries suffered by him. Dr. Sandeep Dahia appeared in the witness box as PW-2 and deposed that he treated the appellant. PW-2 proved the prescription slip, Ex.PW2/A and the certificate of receipt of Rs.14,400/- towards the fee as Ex.PW2/B. The break-up of the fee in certificate, Ex.PW2/B is as under:-

Consultation	:	Rs.200/-
IOPA X Ray	:	Rs.200/-
Composite splinting	:	Rs.10,000/-
<u>321/123</u>		
321/123		
Composite restoration	:	Rs.4,000/-
21/12		

4. The learned Tribunal disregarded Ex.PW2/A and Ex.PW2/B on the ground that the doctor in his cross-examination has deposed that he received payment in cash and he was not maintaining any record with respect to the treatment given to the patient.

5. The findings of the learned Tribunal are misconceived and unsustainable. There is no dispute with respect to the injuries suffered by the appellant and the treatment taken by him. Even if the doctor was not maintaining the record of the treatment given to the patient, the patient cannot be denied the compensation on this ground. The findings of the learned Tribunal are, therefore, set aside.

6. The appellant is entitled to compensation of Rs.14,400/- towards treatment taken by him for the injuries suffered in the accident. Considering the injuries suffered by the appellant, Rs.5,000/- is awarded towards pain and suffering and Rs.5,000/- is awarded towards loss of amenities of life.

7. The appeal is allowed and the award amount is enhanced from Rs.2,500/- to Rs.24,900/- (Rs.14,400 + Rs.5,000 + Rs.5,000). The learned Tribunal has awarded interest @9% per annum which is not disturbed on the original award amount of Rs.2,500/-. 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 UCO Bank, Delhi High Court Branch A/c Rakshit Tokas within 30 days.

9. Upon the aforesaid deposit being made, the UCO Bank is directed to release the same to the appellant by transferring the said amount to the Saving Bank Account of the appellant.

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

NOVEMBER 16, 2009
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J.R. MIDHA, J