

* IN THE HIGH COURT OF DELHI AT NEW DELHI

MAC App. No.247/2008

Date of Decision: October 07, 2010

LAXMAN SINGH Appellants
through Mr. T N Tripathi with Mr. Ranjeet
Singh, Advocate along with appellant in person

versus

RAJENDER SINGH AND OTHERS Respondents
through Mr. Mohan Babu Aggarwal, Advocate
for respondent no.3.
Mr. Udai Raj Singh, Advocate for respondent
no.1.

CORAM:
HON'BLE MISS JUSTICE REKHA SHARMA

1. Whether the reporters of local papers may be allowed to see the judgment? No
2. To be referred to the reporter or not? No
3. Whether the judgment should be reported in the 'Digest'? No

REKHA SHARMA, J. (ORAL)

It is submitted by learned counsel for the appellant that even though as per the medical disability certificate EX-PW-1/4, the appellant has been found disabled by 88% vis-a-vis both his lower limbs, yet, the learned Motor Accident Claims Tribunal ignoring the percentage of disability as given in the disability certificate has taken his disability to be 50% for the purpose of calculating loss of earning due to disability. The appellant is present in person. Though, he is able to stand on his feet, but he does not have a steady walk and according to his counsel, he cannot even stand for long. His counsel also states that he is not doing any job and is totally dependent on his family members for his livelihood.

On the other hand, it is contended by learned counsel for the Insurance Company that since the disability of 88% has not been assessed qua the whole body, the Motor Accident Claims Tribunal by assuming the disability vis-a-vis the whole body as 50% has made no mistake. It is also submitted that even if the appellant is not able to stand for long on his legs, it cannot be believed that he is sitting idle at home because there are many a jobs which do not require movement of legs and can be performed in sitting posture.

Having heard learned counsel for the parties, I do agree with the learned counsel for the Insurance Company that since 88% disability of the appellant assessed by the Medical Board is in relation to both the lower limbs only the same qua the whole body cannot be the same. It has to be less. At the same time, I also feel that having regard to the nature of disability suffered by the appellant, the same vis-a-vis the whole body, has to be more than 50%.

At his stage, learned counsel for the appellant states that the appellant will be satisfied if he is awarded a further sum of ₹ 1 lac for loss of income on account of disability. The counsel for the appellant also states that he will not claim any interest on the said amount.

In view of the above, I direct the Insurance Company to pay a further sum of ₹ 1 lac to the appellant within four weeks from now.

The appeal is disposed of. Dasti.

REKHA SHARMA, J.

OCTOBER 07, 2010
PC