

VINOD KUMAR BANSAL Appellant
Through : Mr. O.P. Mannie, Adv.

versus

RANBIR SINGH & ORS. Respondents
Through : Mr. Ram Ashray, 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.1,91,500/- has been awarded to him . The appellant seeks enhancement of the award amount.

2. The accident dated 18th September, 2006 resulted in grievous injuries to the appellant. The appellant was travelling in bus No.DL-1PB-6424 on route No.957 from Budh Vihar to Avantika. The appellant was standing near the front door of the bus. The bus took a sharp turn at a high speed due to which the appellant fell down from the bus and his right foot came under the rear wheel of the bus. The appellant's right foot was

amputated and his permanent disability was assessed to be 45% as per the disability certificate – Ex.PW1/1.

3. The learned Tribunal computed the compensation as Rs.3,83,000/- but held the appellant to be contributory negligent to the extent of 50% and, therefore, 50% compensation was awarded to the appellant.

4. The learned counsel for the appellant has urged the following grounds at the time of hearing of this appeal:-

- (i) The appellant was not negligent and, therefore, the finding of contributory negligence be set aside.
- (ii) The increase in minimum wages due to inflation and rise in price index be taken into consideration for computing loss of earning capacity.
- (iii) The compensation be awarded for disfiguration.
- (iv) The compensation be awarded for loss of matrimonial prospects.
- (v) The rate of interest be enhanced from 7% to 7.5% per annum.

5. The appellant was standing near the front door of the bus and he fell down due to the sharp turn taken by the bus at a high speed. The appellant would not have met with the accident if he would not have been standing on the front door. The appellant had to get down at Avantika which was about 15 feet away from the spot of the accident. The appellant had no right to stand on the front gate and, therefore, he was negligent and has contributed to the accident. However, holding the appellant to be

50% negligent is not reasonable in the facts and circumstances of this case. The negligence of the appellant is, therefore, taken to be 20% instead of 50%.

6. The learned Tribunal has taken minimum wages of Rs.3,312/- while computing loss of earning capacity of the appellant. The learned Tribunal has not taken into consideration the increase in minimum wages due to inflation and rise in price index. It is well settled by catena of judgments of this Court in the cases of **Kanwar Devi vs. Bansal Roadways, 2008 ACJ 2182, National Insurance Company Limited vs. Renu Devi III (2008) ACC 134 and UPSRTC vs. Munni Devi, MAC.APP.No.310/2007** decided on 28.07.2008 that the Court should take judicial notice of increase in minimum wages to meet the increase in price index and inflation rate. The Court has taken the view that the minimum wages get doubled over the period of 10 years and increase in minimum wages is not akin to future prospects.

7. The income of the appellant for computation of compensation is taken to be Rs.4,968/- $[(Rs.3,312 + Rs.6,624)/2]$. The loss of earning capacity is held to be Rs.3,04,041/- $(Rs.4,968 \times 12 \times 17 \times 30\%)$.

8. The learned Tribunal has not awarded any compensation for disfiguration. There is amputation of right foot and, therefore, Rs.50,000/- is awarded for disfiguration.

9. The learned Tribunal has also not awarded any compensation for loss of matrimonial prospects. The appellant

was unmarried at the time of the accident and has been married two and a half years back to a handicapped woman. Rs.50,000/- is awarded to the appellant for reduction of matrimonial prospects.

10. The appellant is entitled to the total compensation of Rs.4,67,232/- [80% of (Rs.3,04,041 + Rs.5,000 + Rs.6,000 + Rs.5,000 + Rs.10,000 + Rs.4,000 + Rs.50,000 + Rs.50,000 + Rs.50,000 + Rs.50,000 + Rs.50,000)].

11. The appeal is allowed and the award amount is enhanced from Rs.1,91,500/- to Rs.4,67,232/- along with interest @7.5% per annum from the date of filing of the petition till realization.

12. The enhanced award amount along with interest be deposited by respondent No.3 with UCO Bank, Delhi High Court Branch A/c Vinod Kumar Bansal by means of a cheque through Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) within 30 days.

13. Upon the enhanced award amount being deposited, UCO Bank is directed to keep a sum of Rs.3,00,000/- in fixed deposit in the name of the appellant in the following manner:-

- (i) Fixed deposit for Rs.25,000/- for a period of six months.
- (ii) Fixed deposit for Rs.25,000/- for a period of one year.
- (iii) Fixed deposit for Rs.25,000/- for a period of one and a half years.
- (iv) Fixed deposit for Rs.25,000/- for a period of two years.
- (v) Fixed deposit for Rs.25,000/- for a period of two and a

half years.

(vi) Fixed deposit for Rs.25,000/- for a period of three years.

(vii) Fixed deposit for Rs.25,000/- for a period of three and a half years.

(viii) Fixed deposit for Rs.25,000/- for a period of four years.

(ix) Fixed deposit for Rs.25,000/- for a period of four and a half years.

(x) Fixed deposit for Rs.25,000/- for a period of five years.

(xi) Fixed deposit for Rs.25,000/- for a period of five and a half years.

(xii) Fixed deposit for Rs.25,000/- for a period of six years.

14. The remaining amount be released to the appellant by transferring the same to his Saving Bank Account.

15. The interest on the aforesaid fixed deposits shall be paid monthly by automatic credit of interest in the Savings Account of the appellant.

16. Withdrawal from the aforesaid account shall be permitted to the appellant after due verification and the Bank shall issue photo Identity Card to the appellant to facilitate identity.

17. No cheque book be issued to the appellant without the permission of this Court.

18. The original fixed deposit receipt shall be retained by the Bank in the safe custody. However, the original Pass Book shall be given to the appellant along with the photocopy of the FDR.

19. The original fixed deposit receipt shall be handed over to the appellants on the expiry of the period of the FDR.

20. No loan, advance or withdrawal shall be allowed on the said fixed deposit receipt without the permission of this Court.

21. Half yearly statement of account be filed by the Bank in this Court.

22. On the request of the appellant, the Bank shall transfer the Savings Account to any other branch of UCO Bank according to his convenience.

23. The appellant shall furnish all the relevant documents for opening of the Saving Bank Account and Fixed Deposit Account to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi.

24. Copy of the order be given dasti to counsel for both the parties.

25. Copy of this order be also sent to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) through the UCO Bank, High Court Branch.

J.R. MIDHA, J

JANUARY 19, 2010

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