

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 17th October, 2012

+ **MAC. APP. 380/2012**

RAKESH BALI Appellant
Through: Mr. Vijay Wadhwa, Adv.

versus

SUBHASH CHAND & ORS. Respondents
Through: Ms. Manjush Wadhwa, Adv. for R-3.

CORAM:
HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The Appeal is for enhancement of compensation of ₹4,01,000/- awarded in favour of the Appellant for having suffered injuries in a motor vehicle accident which occurred on 13.03.2005.
2. In the absence of any Appeal by the driver, owner or the Insurer, the finding on negligence has attained finality.
3. The Appellant suffered fracture of both bones left leg, collar bone, three ribs and head injuries. He was initially removed to DDU hospital. He was then referred to RML hospital where he remained admitted upto 29.03.2005. On 22.06.2005 bone grafting was done and on 24.06.2005 interlocking system was inserted in his left leg. He received dental treatment from Niketa Vasisth Dental Centre, Dwarka where internal dental wiring was done on 08.06.2006. The Appellant proved estimate for

implantation Ex.PW-1/41. The interlocking nailing system was to be removed for which he proved estimate Ex.PW-1/108. The Appellant was granted compensation of ₹4,01,000/- which is tabulated hereunder:-

Sl. No.	Compensation under various heads	Awarded by the Claims Tribunal
1.	Medical Expenses	₹81,000/-
2.	Pain and Suffering & Enjoyment of Life	₹ 50,000/-
3.	Special Diet, Attendant & Conveyance Charges	₹ 45,000/-
4.	Loss of Income	₹ 2,25,000/-
3.	Loss of Love & Affection	₹ 1,50,000/-
	Total	₹ 4,01,000/-

4. The only contention raised on behalf of the Appellant is that the Appellant filed an estimate Ex.PW-1/41 and examined PW-3 Dr. Amit Sambhi, Dental Surgeon to prove that he required replacement of eight teeth at the cost of ₹30,000/- each. He was, therefore, entitled to be awarded a sum of ₹2,40,000/- for replacement of those eight teeth. He also proved the estimate Ex.PW-1/108 for removal of interlocking nails for ₹24,468/-. The Claims Tribunal did not deal with the aspect of future treatment while awarding compensation.

5. I have before me the Trial Court Record. PW-3 testified as under:-

“PW3 Dr. Amit Sambhi Dental Surgeon running clinic at Shop No.14, Chaudhary Harphool Singh Market, Mahavir Enclave, New Delhi-45

The petitioner remained under my treatment. After examination of petitioner I found that 8 teeth had to be replaced in the upper and lower jaw of the petitioner and that per tooth will cost him ₹30,000/-."

6. PW-3 also issued an estimate Ex.PW-1/41. In his evidence PW-3 admitted that the cost of each tooth would vary from Clinic to Clinic and the period of treatment for replacement of eight teeth would be about six months. Although, a suggestion was given to PW-3 that the cost given by him was very exorbitant, yet no evidence was produced by the Respondent Insurance Company as to what would be the cost of replacement of each tooth. The Respondents could have rebutted PW-3's testimony and the document Ex.PW-1/41 by examining any Orthodontist to give the cost of replacement of each tooth; that having not been done, I have to accept PW-3's testimony. Accordingly, I award him a sum of ₹2,40,000/- towards future treatment for replacement of his eight teeth.
7. The Appellant further proved on record the cost of procedure for removal of interlocking nails given by Orthonova Hospital Ex.PW-1/108 as ₹24,468/-. Details of all the amounts including the Surgeon fee of ₹9,400/- has been mentioned in the estimate. The Appellant is entitled to the award of this amount as also towards future treatment.
8. The estimate Ex.PW-1/41 was given on 17.11.2008 and the estimate Ex.PW-1/108 was given on 16.09.2006. Hence, in all the Appellant is awarded a sum of ₹2,64,468/- towards future treatment.
9. The Appellant would be entitled to an interest @ 7.5% per annum on the amount of ₹2,64,468/- from 01.12.2008 till its payment.

10. Respondent No.3 M/s. the Oriental Insurance Company Limited is directed to deposit the enhanced compensation along with interest with the Claims Tribunal within six weeks.
11. The amount deposited shall be released to the Appellant.
12. The Appeal is allowed in above terms.
13. Pending Applications also stand disposed of.

(G.P. MITTAL)
JUDGE

OCTOBER 17, 2012
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