

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

Date of decision: 16th October, 2012

+ **MAC. APP. No.389/2009**

AJIT SINGH

..... Appellant

Through: Ms. Shantha Devi Raman, Advocate.

Versus

ANIL DHANKER & ORS.

..... Respondents

Through: Ms. Suman Bagga, Advocate

CORAM:

HON'BLE MR. JUSTICE G.P. MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The Appellant Ajit Singh who was working as a Constable (Traffic) in Delhi Police suffered comminuted fracture middle lower 1/3rd of both bones left leg and was awarded a compensation of Rs.1,22,000/-. The Appellant seeks enhancement of compensation primarily on the ground that compensation awarded towards pain and suffering, loss of leave, special diet and conveyance is on the lower side.
2. In the absence of any Appeal by the driver, the owner or the insurer of the offending vehicle, the finding on negligence has attained finality.
3. The compensation of ₹1,22,000/- awarded by the Claims Tribunal is tabulated hereunder:-

Sl. No.	Compensation under various heads	Awarded by the Claims Tribunal
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1.	Medical Expenses	₹32,000/-
2.	Pain & Suffering	₹ 20,000/-
3.	Compensation on account of Leave	₹ 50,000/-
4.	Special diet	₹ 10,000/-
5.	Conveyance	₹10,000/-
	Total	₹1,22,000/-

4. The following contentions are raised on behalf of the Appellants-

(i) The Appellant suffered serious injuries and had to take leave for 331 days. His salary was retrospectively revised from 01.01.2006. He should have been paid compensation for loss of leave as per the revised salary w.e.f. 01.01.2006 as was proved by additional evidence.

(ii) The Appellant underwent surgery by which bolts were placed in his leg in Maharaja Agrasen Hospital, Punjabi Bagh, New Delhi. He remained admitted there from 10.11.2005 to 13.11.2005 and then on 08.05.2006, 08.02.2007, 10.04.2007 and 14.01.2008. It is urged that keeping in view the prolonged treatment, the compensation of Rs.20,000/- towards pain and suffering and Rs.10,000/- each towards special diet and conveyance was on the lower side.

5. The Appeal must succeed on all the grounds.

6. During the pendency of the Appeal, the Appellant moved an application for additional evidence and proved that his salary was revised w.e.f. 01.01.2006. Revised salary in tabulated form was proved as Ex. AW1/1 and Ex.AW2/1. The salary admissible for the period of leave, that is,

09.11.2005 upto October, 2006 was about ₹1,25,000/- and only a sum of ₹50,000/- was awarded towards compensation on account of leave. The tortfeasor is under obligation to put victim in the same position as if no wrong was done to the injured.

7. Thus, the Appellant was entitled to a sum of Rs.1,25,000/- towards loss of leave for 130 days since the time of accident.
8. Keeping in view of the surgery, the period of hospitalization, the period of confinement at home, the compensation of Rs.20,000/- awarded towards pain and suffering is enhanced to Rs.50,000/-. Similarly, the compensation of Rs.10,000/- towards special diet and conveyance is raised to Rs.20,000/- each.
9. The compensation awarded is re-computed as under:

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Sl. No.	Compensation under various heads	Awarded by the Claims Tribunal	Awarded by this Court
1.	Medical Expenses	₹32,000/-	₹32,000/-
2.	Pain & Suffering	₹ 20,000/-	₹50,000/-
3.	Compensation on account of Leave	₹ 50,000/-	₹1,25,000/-
4.	Special diet	₹ 10,000/-	₹20,000/-
5.	Conveyance	₹10,000/-	₹20,000/-
	Total	₹1,22,000/-	₹2,47,00/-

10. Thus, the compensation stands enhanced by ₹ 1,25,000/- which shall carry interest @ 7.5% from the date of filing of the Petition till its payment.

11. The Appeal is allowed in above terms.
12. Pending Applications stand disposed of.

(G.P. MITTAL)
JUDGE

OCTOBER 16, 2012

v