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

Reserved on: 11th November, 2024

% ***Pronounced on: 18th December, 2024***

\+ **MAC.APP. 337/2021 & CM APPLs. 47017/2021, 47019/2021**

POONAM SHARMA .....Appellant

Through: Mr. Sourabh Kansal, Mr. Manish Kumar, Mr. Raghav Vij, Mr. Suraj Kumar Jha & Ms. Pallavi Sharma, Advocates.

versus

SMT. SHIKHA .....Respondent

Through: Mr. Sanjay Kr. Singh & Mr. Sudhir Kumar, Advocates.

\+ **MAC.APP. 338/2021 & CM APPLs. 47033/2021, 47035/2021**

POONAM SHARMA .....Appellant

Through: Mr. Sourabh Kansal, Mr. Manish Kumar, Mr. Raghav Vij, Mr. Suraj Kumar Jha & Ms. Pallavi Sharma, Advocates.

versus

SUMIT .....Respondent

Through: Mr. Sanjay Kr. Singh & Mr. Sudhir Kumar, Advocates.

\+ **MAC.APP. 339/2021 & CM APPLs. 47038/2021, 47040/2021**

POONAM SHARMA .....Appellant

Through: Mr. Sourabh Kansal, Mr. Manish Kumar, Mr. Raghav Vij, Mr. Suraj Kumar Jha & Ms. Pallavi Sharma, Advocates.

versus

SMT. USHA .....Respondent

Through: Mr. Sanjay Kr. Singh & Mr. Sudhir

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Kumar, Advocates.

\+ **MAC.APP. 340/2021 & CM APPLs. 47042/2021, 47044/2021**

POONAM SHARMA .....Appellant

Through: Mr. Sourabh Kansal, Mr. Manish Kumar, Mr. Raghav Vij, Mr. Suraj Kumar Jha & Ms. Pallavi Sharma, Advocates.

versus

SMT. MANJULA .....Respondent

Through: Mr. Sanjay Kr. Singh & Mr. Sudhir Kumar, Advocates.

\+ **MAC.APP. 341/2021 & CM APPLs. 47046/2021, 47048/2021**

POONAM SHARMA .....Appellant

Through: Mr. Sourabh Kansal, Mr. Manish Kumar, Mr. Raghav Vij, Mr. Suraj Kumar Jha & Ms. Pallavi Sharma, Advocates.

versus

HARSHIT .....Respondent

Through: Mr. Sanjay Kr. Singh & Mr. Sudhir Kumar, Advocates.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The present Appeals under *Section 173 of the Motor Vehicles Act, 1988* have been filed on behalf of the Appellant/Respondent No.2, Smt. Poonam Sharma, who was the owner of the offending vehicle challenging the quantum of compensation of the impugned Award/Judgment dated

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18:19:39

03.06.2019.

2. It is claimed that only Shri Sumit, who was driving the TSR, was employed whose salary has been calculated on the basis of Minimum Wages. The other three injured ladies i.e., Smt. Shikha, Smt. Usha and Smt. Manjula and a small boy, Shri Harshit - all have been granted pain and sufferings in the sum of Rs. 50,000/- and Conveyance and Special Diet in the sum of Rs. 30,000/- each, without having regard to the nature of injuries suffered by them.

3. Ld. Counsel on behalf of the Respondents/Claimants have submitted that the compensation, has been granted correctly and merits no interference.

4. **Submissions Heard and Record Perused.**

5. ***Briefly stated,*** on 21.01.2015 at about 10:00 P.M., the injured, namely, Smt. Shikha (daughter of Usha), Smt. Usha, Smt. Manjula and nephew Harshit @ Hanny were travelling in a TSR No. DL-1RF-9295 which was being driven by the injured, Shri Sumit (brother of Shikha). When they were at Lucknow Road, Patrachar Jhuggi, going towards Ring Road, an Accent Car bearing No. DL-2CW-8982 which was being driven by Shri Himanshu Sharma, (*since deceased)*, came from the wrong side and hit the TSR with such an impact that the TSR overturned, resulting in injuries to all the occupants of the TSR. Additionally, the Accent Car hit another e-Rickshaw in which its driver, Shri Santosh was sleeping.

6. All the injured persons were taken to Hospital, where they were given the treatment.

7. An FIR No. 64/2015 under *Sections 279/337/338 of the Indian Penal Code, 1860* was registered at Police Station Timarpur, Delhi. After due investigations, the Chargesheet was filed before the concerned Metropolitan

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18:19:39

Magistrate.

8. The DAR on the basis of the Chargesheet, was also filed before the Claims Tribunal.

9. ***The only challenge*** *raised by the Appellant, Smt. Poonam Sharma, owner of the offending vehicle, is in regard to the quantum of compensation granted to the injured persons.*

MAC.APP. 337/2021

10. ***Injured, Smt. Shikha*** suffered grievous injuries for which MLC, Ex.PW1/19 was prepared. As per the MLC, she was referred for X-rays of various body parts. It was found that she had suffered facture of right *superior and inferior pubic rami and left superior pubic rami*. Additionally, she suffered *commuted fractures of the shaft of both Tibia and Fibula and also fracture of right Fibula head.*

11. According to her medical documents, surgical interventions were done and she remained admitted in the Sushruta Trauma Centre Delhi from 26.01.2015 to 02.02.2015. Her Medical Bills, Ex. PW1/16 were to the tune of Rs. 9,993/-, which had been granted to her by the learned Claim Tribunal.

12. Also, considering the multiple bone fractures that she had suffered, it would have taken at least three months to her to be able to take care of her daily routines. Considering the extensive nature of injuries, wherein she has suffered multiple bone fractures, a compensation towards *Pain And Sufferings* in the sum of Rs. 50,000/- and Rs. 30,000/- *towards Conveyance and Special Diet* given by the learned Claim Tribunal, cannot be faulted.

13. The learned Claim Tribunal had further made assessment that because of the multiple fractures suffered by Shikha, she may not be able to do her household chores for about three months, taking her income as per the

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Signing Date:18.12.2024
18:19:39

Minimum Wages for Graduate Person i.e., Rs. 11,414/-, the *Loss of Income* during treatment period, has been calculated as Rs. 34,242/- (Rs. 11,414/- x 3).

14. Accordingly, ***a total compensation of Rs. 1,24,235/- along with interest @ 9% per annum*** has been awarded to her by the learned Claim Tribunal, which is just and fair compensation.

15. Therefore, the compensation does not warrant any interference.

MAC.APP. 338/2021:

16. ***Injured, Shri Sumit,*** driver of the TSR, aged around 23 years, in the said road accident suffered grievous injuries for which MLC, Ex.PW1/27 was prepared. As per MLC, he was referred for X-rays of various body parts. It was found that he had suffered f*acture of right Acetabulum*.

17. According to his medical documents, surgical interventions were done and he remained admitted in the Sushruta Trauma Centre Delhi from 25.01.2015 to 25.02.2015. Upon his Discharge, he was recommended further medication. His medical bills, Ex. PW1/24 were to the tune of Rs**.** 8,779**/-,** which had been granted to him by the learned Claim Tribunal.

18. Considering the extensive nature of injuries, wherein he had suffered bone fractures, a compensation towards *Pain and Sufferings* in the sum of Rs. 50,000/- and Rs. 30,000/- towards *Conveyance and Special Diet* given by the learned Claim Tribunal, cannot be said to be on higher side.

19. The learned Claim Tribunal had further made assessment that because of the fractures suffered by Sumit, he may not be able to do work for *about three months*; taking his income as per the *Minimum Wages for Unskilled Person i.e., Rs. 8,632/- per month,* the loss of income during treatment period of three months has been calculated as Rs. 25,896/- (Rs. 8,632/- x 3).

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Signing Date:18.12.2024
18:19:39

20. Accordingly, ***a total compensation of Rs. 1,14,675/- along with interest @ 9% per annum*** has been awarded to him by the Tribunal, which is just and fair compensation.

21. Therefore, the compensation does not warrant any interference.

MAC.APP. 339/2021:

22. ***Injured, Smt. Usha,*** aged about 56 years, in the said road accident suffered grievous injuries for which MLC, Ex.PW1/32 was prepared. As per the MLC, she was referred for X-rays of various body parts. It was found that she had suffered *facture of let superior pubic rami. Additionally, she suffered commuted fractures of the shaft of both Tibia and Fibula.*

23. According to her medical documents, surgical interventions were done and she remained admitted in the Sushruta Trauma Centre Delhi from 25.01.2015 to 30.02.2015 (sic.). Her *medical bills,* Ex.PW1/29 were to the tune of Rs. 41,387.11/-, and a sum of *Rs. 41,388/-* had been granted to her by the Tribunal.

24. Also, considering the multiple bone fractures that she had suffered, it would have taken at least four months to her to be able to take care of her daily routines. Considering the extensive nature of injuries, wherein she has suffered multiple bone fractures, a compensation towards *Pain and Sufferings* in the sum of Rs. 50,000/- and Rs. 30,000/- towards *Conveyance and Special Diet* given by the learned Claim Tribunal, cannot be faulted.

25. The learned Claim Tribunal had further made assessment that because of the multiple fractures suffered by Smt. Usha, she may not be able to do her household chores for about three months, taking her income as per the *Minimum Wages for Unskilled Person i.e., Rs. 8,632/-,* the *loss of income* during treatment period has been calculated as *Rs. 25,896/-* (Rs. 8,632/- x 3).

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18:19:39

26. Accordingly, ***a total compensation of Rs. 1,47,284/- along with interest @ 9% per annum*** has been awarded to her by the learned Claim Tribunal, which is just and fair compensation.

27. Therefore, the compensation does not warrant any interference.

MAC.APPL. 340/2021:

28. ***Injured, Smt. Manjula*** suffered grievous injuries for which MLC, Ex.PW1/25 was prepared. As per the MLC, she was referred for X-rays of various body parts. It was found that she had suffered *facture of shaft of Tibia and pubic rami and also fracture of both bones of left leg.*

29. According to her medical documents, surgical interventions were done and she remained admitted in the Sushruta Trauma Centre Delhi from 26.01.2015 to 11.02.2015. Her *Medical Bills, Ex. PW1/22 were to the tune of Rs. 46,357/-* which had been granted to her by the Tribunal.

30. Also, considering the multiple bone fractures that she had suffered, it would have taken at least three months to her to be able to take care of her daily routines. Considering the extensive nature of injuries, wherein she has suffered multiple bone fractures, a compensation towards *Pain and Sufferings* in the sum of *Rs. 50,000/-* and Rs. 30,000/- towards *Conveyance and Special Diet* given by the learned Claim Tribunal, cannot be faulted.

31. The learned Claim Tribunal had further made assessment that because of the multiple fractures suffered by Manjula, she may not be able to do her household chores for about three months; taking her income as per the *Minimum Wages for Matriculate Person i.e., Rs. 10,478/-,* the *Loss Of Income* during treatment period has been calculated as *Rs. 34,242/-* (Rs. 10,478/- x 3).

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18:19:39

32. Accordingly, ***a total compensation of Rs. 1,57,791/- along with interest @ 9% per annum*** has been awarded by the learned Claim Tribunal, which is just and fair compensation.

33. Therefore, the compensation does not warrant any interference.

MAC.APPL.341/2021

34. ***Minor Injured, Shri Harshit,*** *aged about 3 years,* suffered grievous injuries for which MLC, Ex.PW1/74 was prepared. He was taken to Holy Family Hospital where it was found that he had suffered *head injury, diffused cerebral edma, diffuse axonal injury, post tracheotomy, left MCA infarct and left femur fracture.*

35. According to his medical documents, surgical interventions were done and he remained admitted in the Holy Family Hospital from 26.01.2015 to 17.03.2015. His *Medical Bills*, Ex. PW1/71 were to the tune of Rs. 6,07,525/-, which had been granted to him by the learned Claim Tribunal.

36. Considering the extensive nature of injuries, wherein he has suffered multiple bone fractures, a compensation towards *Pain And Sufferings* in the sum of *Rs. 50,000/-* and *Rs. 30,000/-* towards *Conveyance and Special Diet* given by the Tribunal, cannot be faulted.

37. The learned Claim Tribunal had further made assessment that because of the multiple fractures and severe injuries suffered by Shri Harshit, the *loss of enjoyment of childhood* and play during treatment period was given in the sum of Rs. 20,000/-.

38. Accordingly, ***a total compensation of Rs. 7,07,525/- along with interest @ 9% per annum*** has been awarded to him by the learned Claim Tribunal, which is just and fair compensation. Therefore, the compensation

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18:19:39

does not warrant any interference.

Conclusion: -

39. Pertinently, it may be observed that all the five injured persons in the accident have suffered serious injuries with prolonged treatment, the compensation so given to them by the learned Tribunal is rather on the conservative side and the same does not warrant any interference.

40. In view of above, there is no merit in the Appeals which are hereby dismissed along with pending Applications.

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 18, 2024
S.Sharma

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