

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

Date of decision: February 13, 2017

+ **MAC.APP. 339/2008**

COMMISSIONER OF POLICE Appellant

Through: Mr. Naushad Ahmed Khan, ASC
(Civil) GNCTD with Mr. Manzar
Anis, Advocate with SI Om
Prakash

Versus

PANKAJ MOHAN & ANR. Respondents

Through: Mr. Amit Ojha, Ms. Shanti Ranjan
and Mr. Manish Mittal, Advocates
for respondent No.1

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
ORAL

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Impugned Award grants compensation of ₹1,02,000/- to respondent-claimant on account of injuries suffered by him in a road accident on 30th May, 2006. Appellant is the owner of truck in question which had hit motorcycle of respondent-claimant which resulted in the accident in question. The foundational facts are already depicted in impugned Award and so, need no reproduction. Suffice to note that apart from the evidence of respondent-claimant, an attendant and other formal witnesses, there is evidence of driver of truck in question. On the basis of evidence led by the parties, impugned Award has been rendered.

Challenge to impugned Award by learned counsel for appellant-owner is on the ground that Mechanical Inspection Report does not reveal that there was any damage to rear side of motor cycle in question and so, the version put forth of truck in question striking against the motorcycle in question is unacceptable and thus, there is no liability of appellant-owner to pay the compensation.

On the other hand, learned counsel for respondent-claimant supports the impugned Award and submits that the stand now taken by appellant has not been put to respondent-claimant in cross-examination and so, it cannot be made the basis to exonerate appellant-owner. Nothing else is urged by either side.

During the pendency of this appeal, appellant had deposited the awarded amount and vide order of 23rd October, 2008, the Registry was directed to release 50% of the awarded amount to respondent-claimant and the rest of the amount is still lying deposited in the form of FDR.

Upon hearing and on perusal of evidence on record and impugned Award, I find that it has not been put to respondent-claimant in cross-examination that there was no damage on the rear side of motorcycle in question and so, on this plea appellant is not entitled to succeed. It is relevant to note that driver of truck in question has stated in his evidence that motorcycle in question went out of control on its own which resulted in the accident in question. The plea taken by driver of truck in question cannot be made the basis to exonerate appellant for the reason that this plea has not been put to respondent-claimant in cross-examination. What has been put to respondent-claimant in cross-examination is that the

accident in question took place due to negligence of *Rahul Negi*, who is said to be driver of the motorcycle in question. This is a vague plea and would not ensure to the benefit of appellant to seek exoneration.

In the light of aforesaid, I find no substance in this appeal and as such, it is dismissed. Registry is directed to release the balance of the 50% of the awarded amount lying deposited in the form of FDR with interest accrued thereon to respondent-claimant.

Statutory deposit, if any, be refunded to appellant as per Rules.

(SUNIL GAUR)
JUDGE

FEBRUARY 13, 2017

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