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

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Date of Decision: 06th April, 2018

+ MAC.APP. 250/2017 and C.M. Appl. 10043/2017

DHANI RAM

..... Appellant

Through: Mr. Mohd. Azharuddin, Advocate

versus

THE STATE & ANR

..... Respondents

Through: Mr. Yeshpal Singh and Mr. Naveen
Lohia, Advocates for respondent No.1
Mr. Ashok Dahiya, Advocate for
respondent No.2

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.2,35,000/- has been awarded to respondent No.2.
2. The accident dated 03rd December, 2014 resulted in injuries to respondent No.2, who claimed compensation before the Claims Tribunal. The Claims Tribunal awarded Rs.4,301/- towards medical treatment, Rs.20,000/- towards special diet, Rs.10,000/- towards conveyance, Rs.1 lakh towards pain and suffering and Rs.1 lakh towards loss of enjoyment of life. The total compensation awarded is Rs.2,35,000/-.
3. Learned counsel for the appellant urged at the time of the hearing that

the compensation awarded by the Claims Tribunal is exorbitant and is liable to be reduced. It is submitted that respondent No.2 has suffered simple injuries and the compensation awarded by the Claims Tribunal is not commensurate with the injuries suffered.

4. Vide order dated 12th March, 2018, respondent No.2 was directed to remain present in Court along with his complete medical record as well as photographs of the injured portion. Respondent no.2 was further directed to file detailed affidavit giving the nature of injuries suffered by him along with the details of his treatment. Respondent No.2 is present in Court along with his counsel and he submits that the entire medical record had been submitted before the Claims Tribunal. However, Respondent no.2 has not filed the affidavit in terms of the order dated 12th March, 2018. Respondent also No.2 declines to submit the photographs of his injured portion.

5. The record of the Claims Tribunal has been perused. As per the medical record submitted before the Claims Tribunal, respondent No.2 was taken to Sri Balaji Action Medical Institute, Paschim Vihar, New Delhi on 03rd December, 2014 at 12:50 P.M. and he was discharged after X-ray and medicines. As per the said documents, there appears to be a clevical fracture in the left shoulder of respondent No.2 for which he had clevical support and arm sling pouch. Respondent No.2 has placed on record nine medical bills totaling to Rs.4,301/-.

6. The appellant filed evidence by way of affidavit before the Claims Tribunal in which he deposed that he has suffered grievous injuries but no description of the injuries has been given. Respondent No.2 has neither given the details to the treatment taken nor the period of treatment. A vague statement has been made in the affidavit that Rs.2 lakh had been spent on

medical treatment, medicines, special diet and attendant charges.

7. This Court is satisfied that the amount awarded by the Claims Tribunal is exorbitant and liable to be reduced. The Claims Tribunal has awarded compensation of Rs.10,000/- towards conveyance and Rs.20,000/- towards special diet without any basis, which is set aside. Respondent No.2 is working with Delhi Police and there is no loss of earning capacity. The compensation of Rs.1 lakh awarded under the head of loss of earning capacity is, therefore, set aside. The compensation of Rs.1 lakh awarded for pain and suffering is reduced to Rs.20,000/- and respondent no.2 is awarded Rs.25,699/- towards loss of amenities of life. The compensation of Rs.4,301/- for medical expenditure is upheld. The respondent No.2 is entitled to a total compensation of Rs.50,000/-.

8. The appeal is allowed and the compensation awarded by the Claims Tribunal is reduced from Rs.2,35,000/- to Rs.50,000/- along with interest @ 9% per annum from the date of institution of the DAR i.e. 26th February, 2015 till realisation.

9. The appellant has deposited Rs.1 lakh with the Claims Tribunal and Rs.75,000/- with the SDM in recovery proceedings. The Claims Tribunal is directed to release the award amount along with upto date interest in terms of this judgment to respondent no.2 and the balance amount be refunded back to the appellant.

10. The SDM shall refund the amount deposited by the appellant after release of the award amount by the Claims Tribunal. The appellant shall furnish the proof of release of the amount before the SDM before claiming the refund of the amount from the SDM. The SDM is also directed to de-seal the appellant's property within 10 days.

11. The statutory amount be refunded back to the appellant.
12. Copy of this judgment be given *dasti* to counsels for the parties under signatures of the Court Master.

APRIL 06, 2018
rsk

J.R. MIDHA
(JUDGE)

