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**(2013) 08 DEL CK 0222**  
**In the Delhi High Court**  
**Case No : Mac. APP. 1158 of 2012**

Gajender Singh Chauhan

APPELLANT

Vs

Seema Arya and Others

RESPONDENT

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**Date of Decision :** 29-08-2013

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Section 152

**Citation :** (2013) 08 DEL CK 0222

**Hon'ble Judges :** Suresh Kait, J

**Bench :** Single Bench

**Advocate :** J.S. Kanwar, for the Appellant; Rakhi Dubey, Advocate for Respondent No. 3/Insurance Company, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Suresh Kait, J.—Instant appeal has been preferred for enhancement against the impugned award dated 26.03.2012, whereby Id. Tribunal has granted compensation as under:-

Thereafter vide order dated 17.07.2012, Id. Tribunal modified the award and recorded as under:

The perusal of the file reveals that vide order dated 13.07.2012 the application u/s 152 CPC for correction of the Award dated 26.03.2012 was disposed off and necessary correction was made.

Vide order dated 13.07.2012, the total amount of compensation was rectified and Award dated 26.03.2012 was modified/rectified accordingly.

Vide award dated 26.03.2012, a compensation of Rs. 3,70,780/- was awarded. As Rs. 2,00,000/- was granted as cost of treatment instead of Rs. 3,50,000/-, so out of the total amount of compensation, i.e., Rs. 3,70,780/-, after deducting the difference of Rs. 1,50,000/-, the total amount of compensation comes to Rs. 2,20,780/-. So, the total amount of compensation is rectified to Rs. 2,20,780/-

instead of 3,70,780/-. So, order dated 26.03.2012 is modified/rectified accordingly.

A copy of this order be tagged with the Award dated 26.03.2012 and order sheet dated 26.03.2012.

This order is part and parcel of the Award dated 26.03.2012 and order sheet dated 26.03.2012 and the same be read accordingly.

2. Ld. Counsel appearing on behalf of the appellant submits that appellant sustained injuries on head, which were serious in nature and Id. Tribunal has granted less award amount. Further submits that Id. Tribunal has erred in awarding the loss of income on account of leave and erred in considering the income of the injured.

3. Ld. Counsel further submits that towards the pain and suffering, Id. Tribunal has only granted Rs. 10,000/-, whereas keeping the injuries into view, it should have been more than that.

4. On perusal of the record, it is revealed that appellant/injured stated in his affidavit Ex. P-1 that he sustained grievous injuries (right temporal EDH and Temporal Contusion) in his head and other parts of the body. He remained admitted in Kailash Hospital, NOIDA from 24.09.2004 to 04.10.2004. One operation on the head was also done by the Doctors. He spent Rs. 2,09,490/- for his treatment, conveyance and special diet besides the medicines purchased from the market. The appellant filed medical bills of Rs. 1,84,076/-. Accordingly, expenditure incurred on his treatment is estimated as Rs. 2,00,000/- by learned Tribunal.

5. In view of the nature of injuries sustained by the appellant/injured and he remained admitted in the hospital, the amount of compensation on account of pain and suffering is assessed as Rs. 10,000/-. The appellant in his affidavit stated that he was running a Kariyana shop and used to earn about Rs. 300/- to Rs. 350/- per day. Due to the injuries suffered by him, he could not operate his shop and his shop remained closed during the said period. Since the appellant has not placed any record to this effect, therefore, Id. Tribunal has calculated the income of the appellant on the basis of minimum wages. On the date of accident, i.e., on 23.09.2004, the minimum wages of unskilled person was Rs. 2,894.P/- per month which is rounded off to Rs. 2,895/- per month. So, the Id. Tribunal has granted two months" loss of income which comes to Rs. 2,895 x 2, i.e., Rs. 5780/-.

6. Keeping in view the facts and circumstances of the case and submissions of Id. Counsel for the parties, I do not deem it appropriate to enhance the amount and find no discrepancy in the order passed by the Id. Tribunal. Accordingly, instant appeal is dismissed.

CM. NO. 18695/2012

In view of the above, instant application has become infructuous and dismissed as such.