
(1989) 07 DEL CK 0006
In the Delhi High Court

Girwar Singh

APPELLANT

Vs

Charan Singh and Others

RESPONDENT

Date of Decision : 20-07-1989

Acts Referred:

Citation : (1989) 2 ACC 389

Hon'ble Judges : M. Sharief-ud-din, J

Bench : Single Bench

Judgement

Malik Sharief-Ud-Din, J.—The appellant is aggrieved of the quantum of compensation granted to him by the Motor Accident claims Tribunal, Delhi, by its order dated 23rd of November 1979. The total amount assessed by the Tribunal is Rs. 10,000/-. Out of this Rs. 8000/- was awarded as general damages while a sum of Rs. 2000/- was allowed for treatment, special diet and expenses on conveyance. The claim arose in favor of the appellant as a result of an accident which took place on 20th of January 1969 at about 7.30 P.M. with the Army truck owned by the respondents in which the right foot of the appellant was crushed under the front wheel of the truck which had to be amputated ultimately on medical advice.

2. The Tribunal came to the conclusion that the injuries were sustained by the appellant at a result of rash and negligent driving of the military truck No. Y-53749, which was being driven by respondent No. 1 at the relevant date and time. It was further found that there was no negligence on the part of the appellant. Since there are no cross-objections regarding the findings recorded against the respondents these have become final. I have, Therefore, to proceed on the basis that the accident took place as a result of rash and negligent driving of the military vehicle by respondent No. 1 and since the other respondents are the owners they are jointly liable for payment of compensation to the appellant. The learned Presiding Officer of the Tribunal has observed that there are no mathematical norms to measure the loss caused to a person on account of bodily injuries but there are certain settled principles which are to be followed to

compensate the victim fairly and reasonably. It is a settled principle of law that such a victim is to be compensated for loss of earning or earning capacity and furthermore he is to be compensated for incidental expenses like treatment, special diet etc. on which he had to spend money. In awarding compensation in such cases the nature and degree of deprivation and the consequences of such deprivation have also to be taken into consideration.

3. Even though the learned Presiding Officer of the Tribunal came to the conclusion that the appellant's foot had to be amputated as a result of injuries which he sustained in this accident the Tribunal held for want of evidence that the appellant has failed to show that this disability has in any way interfered with his earning capacity. Strangely, the Tribunal, after holding that the disability has not interfered with the earning capacity of the appellant, held that this aspect still cannot be overlooked as the appellant has been deprived of walking properly. It is anybody's guess as to how much agony and suffering the appellant must have undergone as a result of amputation of his foot. This suffering and agony must have been shared by his kith and kin also. In this way the entire household must have undergone a great deal of suffering and agony. Even though there is no fixed measure to find out how such agony and anguish is to be compensated there still is a human approach which is that compensation for such suffering, agony and disability must be fair, reasonable and proper. According to the finding of the Tribunal this disability has definitely deprived the appellant of his power to walk and run properly. If that be so then it necessarily follows that it must have eventually interfered with his working capacity as well. In such a situation, Therefore, grant of compensation for loss and suffering to the tune of Rs. 8000/-, in my view, does not serve the ends of justice. In the present case, in my view, a total amount of Rs. 15,000/- would be reasonable and proper and would meet the ends of justice. The appeal is as such allowed and the total compensation is assessed at Rs. 15,000/-, I am told that the sum of Rs. 10,000/- has already been paid. The remaining amount of Rs. 5000/- shall be paid to the appellant within three months from the date of this order, failing which the appellant shall also be entitled to interest; at the rate of 12% per annum on the remaining amount of Rs. 5000/- from the date of this order till its final realisation. The appeal shall stand disposed of.