

(2013) 10 DEL CK 0026

In the Delhi High Court

Case No : Writ Petition (C) No. 3340 of 2012 and CM No. 11875 of 2013

Manohar Singh

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 25-10-2013

Acts Referred:

Citation : (2013) 10 DEL CK 0026

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : Om Prakash Gupta, for the Appellant; Sarfaraz Khan, Advocate for the Respondent/UOI, Ms. Ferida Satawawala and Mr. Omar Siddiqui, Advocates, for the Respondent

Final Decision : Disposed Off

Judgement

V.K. Jain, J.—The petitioner before this Court came to attend a hearing before this Court on 7th September, 2011. According to him, when he was standing in the queue for issuance of a pass, a bomb exploded near Gates No. 4 & 5 of the High Court building, as a result of which he was seriously injured and was taken to Dr. RML hospital. According to the petitioner, he was operated upon and foreign bodies were removed from his right leg. Vide its order dated 14th September, 2011 passed in WP(C) No. 6686/2011, Gaurav Kumar Bansal v. Union of India & Ors., a Division Bench of this Court, directed payment of compensation to the victims of the bomb blast which took place on 7th September, 2011 in the following manner:-

Keeping in view the totality of the circumstances, we are of the considered opinion that the legal representatives of the deceased persons should be extended the benefit of Rs. 10 lakhs each, which shall be equally shared by the Union of India and Government of NCT of Delhi; the victims who have suffered permanent disability, they shall be paid Rs. 10 lakhs each; the persons who have been grievously injured, shall be extended the benefit of Rs. 3 lakhs each and the people who have suffered minor injuries shall be given Rs. 20,000/- each.

Where we have used the terms permanent disability/permanently incapacitated, for the present purpose, would also include any person who has lost any limbs. As far as the grievous injury is concerned, as we have been apprised, the time of healing has been taken into consideration.

The respondents treated the injury received by the petitioner in the aforesaid bomb blast to be "minor" in nature and paid him compensation amounting to Rs. 10,000/-. Later on, an additional sum of Rs. 10,000/- was paid to the petitioner considering the aforesaid decision of the Division Bench in view and the amount paid to him as compensation was thereby enhanced to Rs. 20,000/-. The petitioner sought review of the decision taken by the respondent with respect to the aforesaid ex gratia payment but, the representation yielded no results. Being aggrieved by the decision of the doctors treating his injury to be simple in nature, the petitioner is before this Court seeking the following prayer:-

- i) Issue writ/order directing the respondent to pay ex-gratia/compensation of Rs. 3 Lakhs to the petitioner.
- ii) Issue writ/order directing the respondent to reimburse the medical and other expenses incurred by the petitioner.
- iii) Award the cost of the case/writ.
- iv) Pass such other and further order(s) as this Hon"ble Court deems fit and proper in the facts and circumstances of the case.

2. When this writ petition came up for hearing before this Court on 27.2.2013, the petitioner was directed to appear before the Superintendent of Dr. Ram Manohar Lohia Hospital who was to detail a doctor with the requisite speciality to ascertain as to whether the injury suffered by the petitioner, having regard to the duration of the healing could be classified as a grievous injury. Pursuant to the said direction, the petitioner was re-examined by the doctors of Dr. RML Hospital. Even after fresh evaluation, the doctors opined that the injury sustained by the petitioner was a simple injury.

3. The learned counsel for the petitioner submits that though the Division Bench had recorded the submissions of the respondent that as regards grievous injury, the time of healing had been taken into consideration, such time was not considered in his case. He submits that though the petitioner remained admitted in the hospital and was discharged from there after 3 days, the wounds sustained took as many as one month and 5 days to heal.

4. A perusal of the OPD Registration Card of the petitioner would show that he was examined by the doctor on 21st March, 2012. The wound of the petitioner was opined to be healthy and he was advised to apply Efatop-PE cream locally on his wound. Vide letter dated 11th April, 2012, the doctor of RML Hospital informed the petitioner that as per the comments of treating doctors, the clinical examination, occupational therapy assessment and plastic surgery opinion revealed a healed scar(R) calf with good function of knee, ankle and ambulant

patient which according to the medical jurisprudence falls in the category of "simple injury". A perusal of the letter dated 10th April, 2013 sent by RML Hospital to the concerned SDM, with a copy endorsed to the petitioner, would show that the following was the observation made by the Medical Board with respect to the injury sustained by the petitioner:-

Mr. Manohar Singh sustained soft tissue injury to the right calf, for which he was admitted to this hospital. There was no associated bony or neurovascular injury. He was discharged from hospital after two days and was asked to follow up for dressings on outpatient basis. Mr. Manohar Singh turned up at regular intervals to the outpatient department of the hospital for follow up.

In our opinion the injury sustained by Mr. Manohar Singh was a "Simple Injury".

5. It would, thus, be seen that while giving opinion with respect to the nature of the injury sustained by the petitioner, the doctors of RML Hospital have considered only the extent of the injury sustained by him and the period spent by him in the hospital but they have not taken into consideration the actual time taken for healing the wound.

6. In my view, considering the statement made before the Division Bench of this Court on 21st September, 2011, it was incumbent upon the respondent to take the time of healing also into consideration, for the purpose of deciding whether the injury sustained by the petitioner in the bomb blast, which took place on 7th September, 2011, can be said to be grievous injury or not. Since the aforesaid period was not considered by the doctors of RML hospital and their report was based only on the nature of the wound sustained by the petitioner, it would be necessary for the respondents to take a fresh look on the nature of the injury sustained by the petitioner in the light of the time taken for healing of the said wound. The writ petition is, therefore, disposed of with a direction to the Medical Superintendent of Dr. RML Hospital to set up a fresh panel of three doctors, including a doctor from Neurological Department of the said hospital to consider the case of the petitioner in the light of the time taken for healing of wounds and then decide whether considering the extent of the wound, time taken for its healing and other attendant circumstances, the injury sustained by the petitioner can be said to be a grievous injury or not. The petitioner shall be entitled to place all the relevant papers pertaining to his treatment before the aforesaid Board which shall be set up within two weeks from today. A fresh decision by the Medical Board with respect to the extent of the injury sustained by the petitioner shall be taken within two weeks thereafter. In case the injury sustained by the petitioner is opined to be grievous, he shall be paid ex gratia which the respondents had agreed to pay to those bomb blast victims who had sustained grievous injury. In case the petitioner is aggrieved from the decision so taken by the Medical Board of RML Hospital, he shall be entitled to avail such remedy as is available to him, in accordance with law.

The petition stands disposed of.

A copy of this order be given dasti under the signature of the Court Master.