
(2014) 03 DEL CK 0144
In the Delhi High Court
Case No : Mac. App. No. 475 of 2012

Master Aman

APPELLANT

Vs

Meharban and Others

RESPONDENT

Date of Decision : 14-03-2014

Acts Referred:

Citation : (2014) 2 ACC 345 : (2015) ACJ 1481

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Rishi Sood, for the Appellant; J.P.N. Shahi, Advocate for Respondent No. 3/Insurance Company, for the Respondent

Final Decision : Allowed

Judgement

Suresh Kait, J.—The present appeal is preferred against the impugned award dated 08.07.2011, whereby the learned Tribunal has granted compensation as under:-

Interest at the rate of 7.5% per annum from the date of filing of the petition till realization of the amount was also awarded by the learned Tribunal.

Vide the present appeal, the appellant is seeking enhancement of the compensation as noted above.

2. Brief facts of the case are that on 24.03.2006, when the appellant along with his mother was crossing the road, was hit by a truck bearing No. HR 55A 8912, driven in a negligent manner with high speed by respondent No. 1, as a result of which, he received crushed injuries on his left leg and was taken to RTR Hospital, New Delhi.

3. Sh. Mahender Singh, Stenographer from Office of Civil Surgeon, Jhajjar, District Jhajjar, Haryana, who appeared as PW3 had produced the register, before the Tribunal, containing entries of issuance of the disability certificate and testified that entry at Sr. No. 371/8 was in the name of Master Aman. He testified

the signatures of Dr. K.S. Dalal, Dr. Poonam Sharma and Dr. Murari Lal appearing on disability certificate. The disability certificate Ex. PW3/B issued by the aforementioned doctors shows that injuries sustained by the appellant on left leg are of permanent nature and assessed the disability as 22%.

4. Learned counsel appearing on behalf of the appellant submits that the learned Tribunal has awarded a very meagre amount of compensation as mentioned above.

5. In support of his submissions, learned counsel has relied upon a case of Master Mallikarjun Vs. Divisional Manager, the National Insurance Company Limited & Anr. (s), decided by the Supreme Court in Civil Appeal No. 7139/2013 on 26.08.2013.

6. As per the disability certificate Ex. PW3/B, the appellant has received 22% permanent disability in respect of left limb. Keeping in view the dictum of Raj Kumar Vs. Ajay Kumar and Another, , I assess the functional disability of the appellant as 11%.

7. I note, the learned Tribunal has granted Rs. 44,000/- only as compensation on account of disability, whereas in the case of Master Mallikarjun (supra), the Supreme Court has held as under:-

12. Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a motor vehicle accident, having regard to the relevant factors, precedents and the approach of various High Courts, we are of the view that the appropriate compensation on all other heads in addition to the actual expenditure for treatment, attendant, etc., should be, if the disability is above 10% and upto 30% to the whole body, Rs. 3 lakhs; upto 60%, Rs. 4 lakhs; upto 90%, Rs. 5 lakhs and above 90%, it should be Rs. 6 lakhs. For permanent disability upto 10%, it should be Rs. 1 lakh, unless there are exceptional circumstances to take different yardstick.....

8. In view of the above, the compensation amount comes as under:

Accordingly, the total compensation amount is assessed at Rs. 3,38,500/-.

9. Resultantly, an amount of Rs. 2,66,000/- is enhanced (Rs. 3,38,500/--Rs. 72,500/-).

10. The enhanced amount shall carry interest @ 7.5% per annum from the date of filing of the claim petition till its realization.

11. Accordingly, the respondent No. 3/Insurance Company is directed to deposit the enhanced compensation amount with upto date interest accrued thereon with the Registrar General of this Court within a period of six weeks from today, failing which, appellant/claimant shall be entitled for penal interest @ 12% per annum on account of delayed payment.

12. On deposit, the Registrar General is directed to keep the same in the form of

FDR for a period of three years.

13. As per the service report, notice upon respondent No. 2, i.e., owner of the offending vehicle has been served through his nephew and respondent No. 1/ driver of the offending vehicle also served through nephew of respondent No. 2, however, appeared none on their behalf.

14. In the present case, recovery rights have been granted in favour of the respondent No. 3/Insurance Company by the learned Tribunal. Therefore, the recovery rights are extended in respect of the enhanced compensation in favour of respondent No. 3/Insurance Company. The appeal is allowed accordingly.