

(2013) 08 DEL CK 0184
In the Delhi High Court
Case No : Mac. APP. 161 of 2012

New India Assurance Co. Ltd.

APPELLANT

Vs

Vipin Bhardwaj and Others

RESPONDENT

Date of Decision : 27-08-2013

Acts Referred:

Citation : (2013) 08 DEL CK 0184

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : A.K. Kaul, for the Appellant; Y.D. Sharma, for R1, for the Respondent

Final Decision : Disposed Off

Judgement

Suresh Kait, J.—Instant appeal has been preferred against the impugned award dated 23.11.2011, whereby Id. Tribunal has granted compensation for a sum of Rs. 99,407/- in favour of the respondent no. 1/injured with interest @ 7.5% per annum from the date of filing the petition till its realization. The appellant also challenged the direction to deposit the award amount within 30 days from the date of the impugned order failing which interest @ 12% per annum shall be charged w.e.f. 09.08.2011 (judgment reserved) till realization.

2. Ld. Counsel appearing on behalf of the appellant submits that Id. Tribunal has granted the compensation as under:-

He submits that the said award amount is on a very higher side towards all counts and needs to be reduced.

3. Ld. Counsel appearing on behalf of the respondent no. 1/injured submits that keeping the injuries into view and the loss of study to respondent no. 1/injured, Id. Tribunal has rightly awarded the compensation for a sum of Rs. 99,407/-. The appellant has not disputed the issue no. 1. Therefore, it is proved that the respondent no. 1/injured sustained injuries on 16.12.2010 due the rash and negligent driving of tractor bearing registration no. HR-13D-4381 by respondent

no. 2 Rattan Kumar. To this effect FIR has been proved as Ex. PW1/1, site plan as Ex. PW1/2, arrest memo of respondent no. 2 Rattan Kumar, driver of the offending vehicle as Ex. PW1/3. Thus it is proved that the driver of the offending vehicle was negligent while committing the accident in question.

4. Perusal of the record reveals that respondent no. 1/injured filed his affidavit Ex. PW1/A wherein it is stated that he was taken to RTRM Hospital, Nazafgarh, where he remained admitted for 4 days and thereafter he was referred to AIIMS on 28.12.2010. He remained in ICU (AIIMS Trauma Centre) from 20.12.2010 to 23.12.2010. MLC has been proved as Ex. PW1/5. He also proved the medical bills on record amounting to Rs. 31,407/-. To prove the MLC of RTRM Hospital, respondent no. 1 has examined PW1 Sh. J.C. Vashishtra, Record Clerk of RTRM Hospital, who proved the photocopy of MLC of Vipin Bhardwaj respondent no. 1/injured as Ex. PW1/5. He has also proved the summary of discharge as Ex. PW3/A.

5. In the affidavit, filed by respondent no. 1/injured Ex. PW1/A it is stated that he was studying in MERI College of Engineering & Technology, Village Asauda, near Sampla, Bahadurgarh, Haryana. He had already deposited the examination fee of Rs. 2,608/- of the 5th Semester. But due to the accident in question, he could not appear in examination of 5th Semester and thereafter again he deposited his examination fees of Rs. 800/-.

6. Keeping in view the trauma suffered by the respondent no. 1/injured as he remained in ICU (AIIMS Trauma Centre) from 20.12.2010 to 23.12.2010 and the loss of study, I do not find any discrepancy in the award passed by the Id. Tribunal vide order dated 23.11.2011.

7. As pointed out by the Id. Counsel for the appellant that Id. Tribunal vide order dated 23.11.2011 has directed to deposit the award amount within 30 days failing which penal interest @ 12% per annum shall be charged w.e.f. 09.08.2011 till realization. I am of the opinion, there is no logic behind as to why the Id. Tribunal has imposed the penal interest of 12% per annum w.e.f. 09.08.2011, the day on which the award was reserved. Vide order dated 13.02.2012 passed by this court, appellant was directed to deposit the entire award amount with Registrar General of this court.

8. In view of the above, Registrar General of this court is directed to release the compensation amount in favour of respondent no. 1/injured with interest @ 7.5% from the date of filing of the claim petition till 23.12.2011 and thereafter penal interest @ 12% till the amount deposited pursuant to order dated 13.02.2012 with Registrar General of this court in terms of the award dated 23.11.2011 on taking steps.

9. Statutory amount be released in favour of the appellant. Instant appeal stands disposed of accordingly.

CM. NO. 2710/2012

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