
(2009) 09 DEL CK 0246
In the Delhi High Court
Case No : Mac. App. No. 292 of 2006

Rajbir Singh

APPELLANT

Vs

Ashok Kumar

RESPONDENT

Date of Decision : 09-09-2009

Acts Referred:

Citation : (2009) 09 DEL CK 0246

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : Pramod Kumar Kharwar, Santosh Chaurihaa and Binod Agarwal, for the Appellant; J.P.N. Shahi, for R - 2, for the Respondent

Final Decision : Allowed

Judgement

J.R. Midha, J.—The appellant has challenged the award of the learned Tribunal whereby compensation of Rs. 1,07,071/- has been awarded to the appellant. The appellant seeks enhancement of the award amount.

2. The accident dated 26th September, 2001 resulted in the grievous injuries to the appellant. The appellant suffered 41% permanent disability due to the fracture of both bones and shortening of right leg.

3. The learned Tribunal has awarded Rs. 31,200/- towards the loss of earning, Rs. 25,000/- towards the disability, Rs. 25,871/- towards the medical expenses, Rs. 10,000/- towards the special diet and conveyance, Rs. 5,000/- towards the loss of amenities of life and Rs. 10,000/- towards the pain and sufferings. The total compensation awarded to the appellant is Rs. 1,07,071/-.

4. The learned Counsel for the appellant submits that the learned Tribunal has not taken the permanent disability into consideration and has awarded compensation treating it as temporary disability. The learned Counsel further submits that the certificate with respect to the permanent disability of the appellant has been received after the award of the learned Tribunal. The permanent disability certificate has been produced before this Court. The

photocopy of the same has been retained and the original has been returned back to the appellant.

5. Considering 41% permanent disability, the compensation for pain and sufferings is enhanced from Rs. 10,000/- to Rs. 40,000/-. The compensation for loss of amenities of life is enhanced from Rs. 5,000/- to Rs. 40,000/-. Considering the condition of the appellant, the compensation for conveyance is also enhanced from Rs. 10,000/- to Rs. 20,000/-. The compensation under the other heads is just, fair and reasonable and does not call for any interference.

6. The appeal is allowed. The award amount is enhanced from Rs. 1,07,071/- to Rs. 1,82,071/- (Rs. 31,200 + Rs. 25,000 + Rs. 25,871 + Rs. 20,000 + Rs. 40,000 + Rs. 40,000). The learned Tribunal has awarded interest @ 9% per annum which is not disturbed on the original award amount of Rs. 1,07,071/-. However, on the enhanced award amount, the rate of interest shall be @ 7.5% per annum.

7. Respondent No. 2 is directed to deposit enhanced award amount along with interest with the learned Tribunal within 30 days.

8. Upon the aforesaid deposit being made, the learned Tribunal is directed to release 50% of the award amount to the appellant and the remaining 50% be kept in the fixed deposit for a period of five years on which monthly interest be released to the appellant.

9. No loan, advance or withdrawal be permitted without the permission of the learned Tribunal

10. Copy of this order be given "Dasti" to learned counsel for both the parties under the signature of Court Master.