
(2012) 12 DEL CK 0346
In the Delhi High Court
Case No : MAC. APP. 563 of 2012

Reliance General Insurance Co. Ltd.

APPELLANT

Vs

Kailesh Mandal and Others

RESPONDENT

Date of Decision : 03-12-2012

Acts Referred:

Citation : (2012) 12 DEL CK 0346

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : K.L. Nandwani, for the Appellant; Vijay Kumar Wadhwa, Advocate for the Respondent No. 1, for the Respondent

Final Decision : Dismissed

Judgement

G.P. Mittal, J.—The Appeal is for reduction of compensation of Rs. 4,62,411/- awarded by Motor Accident Claims Tribunal (the Claims Tribunal) in favour of the First Respondent (Kailash Mandal) for having suffered injuries in a motor vehicle accident which occurred on 22.06.2009. The finding on negligence is not challenged by the Appellant Insurance Company; thus the same has attained finality.

2. There is twin challenge to the impugned judgment. It is urged by the learned counsel for the Appellant that the compensation of Rs. 1,00,000/- towards pain and suffering and a compensation of Rs. 2,97,411/- awarded towards loss of earning capacity is on the higher side.

3. I have before me the disability certificate Ex. PW1/5 issued by the medical board of DDU Hospital. There was non-union of fracture of right femur which resulted in permanent disability to the extent of 90% in respect of the right lower limb. The First Respondent was a rickshaw puller. Because of non-union of the fracture of right femur, the Respondent No. 1's leg is worse than no leg at all. He would suffer pain throughout his life and he would not be able to pursue his profession, particularly at this age of 63 years. The Claims Tribunal rightly

awarded the compensation of Rs. 1,00,000/- towards pain and suffering and Rs. 2,97,411/- towards loss of future earning capacity.

4. The Appellant Insurance Company did not apply its mind while preferring the instant Appeal. Had the Insurance Company considered the profession of the Respondent No. 1 and the disability suffered by him, this Appeal could have been avoided.

5. The Appeal is dismissed with costs throughout and special cost of Rs. 15,000/- to paid to the First Respondent. If the cost is not paid to the First Respondent within four weeks, it shall be deducted from the statutory amount payable to the Appellant Insurance Company.

6. The amount of compensation lying deposited shall be released in favour of the First Respondent in terms of the orders passed by the Claims Tribunal. Pending Applications stand disposed of.