

(1989) 09 DEL CK 0034

In the Delhi High Court

Case No : First Appeal No. 165 of 1978 and Civil Miscellaneous Appeal No. 2702 of 1978

S. Jaswant Singh and Others

APPELLANT

Vs

P.N. Handa

RESPONDENT

Date of Decision : 27-09-1989

Acts Referred:

Citation : (1990) 18 DRJ 120

Hon'ble Judges : R.L. Gupta, J

Bench : Single Bench

Advocate : D.R. Mahajan and A.C. Gambhir, for the Appellant;

Judgement

R.L. Gupta, J.

(1) This appeal is filed by owner-driver Jaswant Singh. and the Insurance Company jointly against the respondent who was the victim of the road accident in the following circumstances.

(2) On 13-10-1976 at about 1.40 P.M., the respondent was going on his scooter DHO-4 from his office at Asaf Ali Road at a slow speed and on the correct side of the road. When he reached in front of the office of Voltas at Asaf Ali Road, appellant No. 1, owner-driver of tempo No. DHG-7002 while driving his tempo on the wrong side in rash, negligent and reckless manner at a fast speed struck the front portion of the tempo against the scooter of the respondent. He did not even care to blow horn at that time. As a result of the severe and violent impact, his scooter fell on the left side of the road causing serious injuries to the respondent. Both the bones of his left leg below the knee joint were broken and crushed. There was also a fracture on the left ankle joint. The tempo could be stopped at a considerable distance from the place of the accident by a crowd of people when appellant No. 1 tried to run away from the scene. He was also coasted to take the injured to Hospital. The respondent remained admitted in the hospital as an indoor patient from 13-10-76 to 16-10-77 and the X-rays indicated fracture as

stated above. After recording evidence of both sides the Tribunal came to the conclusion that the accident was caused due to rash and negligent driving of the tempo by appellant No. 1. In conclusion the Tribunal awarded Rs. 54,600.00 as compensation to the respondent. Out of this amount the liability of the Insurance Company was held to the extent of Rs. 50,000.00 . The appellants were directed to deposit the awarded amount within two months from the date of the award i.e. 26-7-78 failing which they were liable to pay interest at the rate of 6% per annum from the date of the award till the date of realisation.

(3) The grant of award in favor of the respondent has been challenged on a number of grounds. Respondent also filed cross-objections claiming enhancement of the, amount of award to Rs. Two lacs with costs and interest.

(4) I have heard arguments advanced by learned counsel for the parties. Learned counsel for the appellants has not addressed any argument on the question of rash and negligent driving attributed to appellant No. 1.

(5) On the awarded amount, learned counsel for the appellant contended that the Tribunal had awarded a sum of Rs. 20,000.00 as special damages on account of the permanent disability suffered by respondent. It is urged that this amount was on a very higher side. He has also argued that the respondent nowhere pleaded that he will have to engage a public conveyance for going to and coming from his office for the rest of his service career and inspire of the absence of any such pleading the Tribunal granted a sum of Rs 27,600.00 on that count which should not have been done. On behalf of the respondent-cross-objector, it is argued that in fact the sum of Rs. 20,000.00 awarded by the Tribunal on account of the permanent disability suffered by the respondent was on lower side and he had still a very long way to go in life. He was only 36 years old and on account of this accident his entire personal, social and official life had been crippled. The evidence on record clearly show that on account of this accident one of the legs of the respondent was shortened by 3" and he will have to bear double iron clippers with surgical shoes due to the slow union of bones for a pretty long time.

(6) I have given my utmost consideration to the rival contentions raised by learned counsel for the parties The award was given in the year 1978. There is no doubt that there is no specific pleading raised by the respondent to the effect that he will have to engage some three-wheeler scooter for going to and coming from his office. However, the fact remains that as per the advice of the doctor the respondent was prohibited from going in public buses because they were too crowd and congested. He lived at the time of the accident in Minto Bridge Railway Colony, New Delhi which would be about 2 km from his office at Asaf Ali Road. Thus, he was bound to engage some public conveyance. He was prohibited from purchasing his own scooter. Therefore, the grant of Rs. 27,600/ to the respondent towards conveyance for the remaining period of his service of 23 years was neither on higher nor or lower side Similarly the grant of Rs. 20,000.00 on account of the permanent disability suffered by the respondent seems to be amply justified. This assessment was made in the year 1978. Now.

of course because of the rise in prices, the purchasing power of rupee has gone down astronomically. But taking into consideration the fact that the purchasing power of the year 1978 was not so low, I think the grant of Rs. 20,000.00 on account of the permanent disability was reasonably quantified by the Tribunal. No challenge is made to the award on other heads. Therefore, The award as such is maintained.

(7) Now coming to the arguments of the learned counsel for the respondent regarding interest. The Tribunal did not grant any interest as such to the respondent on the amount of the award. It is a matter of common knowledge that compensation is awarded to an injured or the heirs of the deceased on account of the fact that either they have suffered some permanent disability or the heirs have lost their only bread winner in the family. Therefore, the award is in the nature of damages on account of a civil wrong suffered by, the victim of the road accident. The grant of interest on the amount of the award would be justified if the facts and circumstances of the case so warrant. I am of the view that in the facts and circumstances of this case the Tribunal should have awarded interest to the respondent at the rate of 12% per annum on the awarded amount from the date of the petition till realisation of the awarded amount. I, Therefore, order that the respondent-cross-objector shall also be entitled to recover interest from the appellants as stated above. The appeal and the cross-objections are disposed off accordingly.