

(2008) 02 DEL CK 0284

In the Delhi High Court

Case No : MAC. APP. No. 163 of 2005

Sharda Gupta and Others

APPELLANT

Vs

Harish Kumar and Others

RESPONDENT

Date of Decision : 28-02-2008

Acts Referred:

Citation : (2008) 02 DEL CK 0284

Hon'ble Judges : Kailash Gambhir, J

Bench : Single Bench

Advocate : Nemo, for the Appellant; Manjusha Wadhwa, for the Respondent

Judgement

Kailash Gambhir, J.—Nobody is present for the appellant.

2. I have heard counsel for the respondent Ms. Manjusha Wadhwa and have perused the contentions raised in the appeal and have also perused the record.

3. The brief facts of the case inter alia are that on 21.5.89 at about 9.30 A.M. at Netaji Subhash Marg, near Golcha Cinema, the deceased Shri Prahlad Rai Gupta who was the pillion rider on a two wheeler scooter driven by Shri Subhash Chand Jain was coming from Kinar Bazar and going to Okhla, met with an accident near Golcha Cinema by a tempo bearing registration No. HNL-6827 driven by the driver of the offending vehicle in a rash and negligent manner. The deceased was removed to JPN Hospital and from there he was shifted to Ganga Ram Hospital where he expired on 26.5.89 due to the severe injuries received by him in the said accident.

4. The appellant is mainly aggrieved with the findings of the Tribunal whereby the Tribunal has disallowed grant of interest w.e.f. 23.2.96 to 23.12.2003. The contention as raised by the appellant in the present appeal is that there were genuine reasons disclosed by the appellants for their non-appearance and believing the said reasons the Tribunal had allowed the restoration application of the appellant and claim petition was accordingly restored vide order dated 23.12.2003. The appellant thus claimed that at least the Tribunal could have

awarded the interest w.e.f. 21.9.89 till 23.2.96, i.e., from the date of filing of the petition till the date of dismissal of claim petition in default.

5. Ms. Wadhwa, counsel for the respondent states that the delay caused in the dismissal of the claim petition can be solely attributed to the appellants themselves and therefore, looking into the conduct of the appellant they are not entitled for the grant of interest even for the period as claimed in the present appeal.

6. Perusal of the record shows that the claim petition filed by the appellant was dismissed in default on 23.2.96 and the same was restored on 23.12.2003. The Tribunal has disallowed the interest on the compensation amount w.e.f. 23.2.96 till 23.12.2003, but the Tribunal has not given any reasons as to why the appellants have been deprived from the award of interest on the compensation amount from the date of filing of the petition till 23.2.96 when the claim petition was dismissed in default. I, therefore, do not find any justification on the part of the Tribunal in disallowing the interest at least from the date of the filing of the petition till the petition was dismissed in default.

7. In the light of the above discussion, I set aside the impugned order dated 2.11.2004, to the extent of depriving the appellants from the benefit of interest w.e.f. date of filing of petition i.e., 21.9.89 till 23.12.96, the date when the petition was dismissed in default due to the non-appearance of the appellants. The appellants are allowed the benefit of interest @9% p.a. w.e.f. 21.9.89 till 23.2.96.

8. With these directions, the appeal stands disposed of.