
(2007) 02 DEL CK 0105
In the Delhi High Court
Case No : FAO No. 52 of 1996

Shri Shiv Raj Singh

APPELLANT

Vs

Shri Gurmel Singh and Others

RESPONDENT

Date of Decision : 07-02-2007

Acts Referred:

Motor Vehicles Act, 1988 — Section 140(1), 142

Citation : (2007) 2 ACC 158 : (2007) 138 DLT 490

Hon'ble Judges : Vidya Bhushan Gupta, J

Bench : Single Bench

Advocate : O.P. Mannie, for the Appellant; None, for the Respondent

Judgement

V.B. Gupta, J.—Present appeal has been filed against the award dated 20th October, 1995 passed by Sh. Charanjit Jawa, Motor

Accidents Claim Tribunal, Delhi.

2. The case of the appellant is that on 15th May, 1985 he was traveling in bus No. DEP-5543 from Sabji Mandi to Lawrence Road. When the

bus reached at G.T. Karnal Road, near Police Station, Adarsh Nagar at about 10.15 a.m., a truck bearing No. PBH-885 driven rashly and

negligently by its driver (respondent No. 1) struck against the bus with the result the appellant sustained injuries. Respondent No. 5 is the owner

whereas respondent No. 6 is the insurer of this truck. Respondent No. 4 is the driver of the bus whereas respondents 2 and 7 are its owner and

respondent No. 3 is the insurer of the bus.

3. Vide the impugned judgment, learned Tribunal awarded a sum of Rs. 45,000/- as compensation under the following heads:

(1) Pain & Sufferings : Rs. 05,000/-

- (2) Exp. incurred on treatment, good diet & conveyance : Rs. 10,000/-
- (3) Loss of income : Rs. 07,000/-
- (4) Loss of enjoyment of life : Rs. 05,000/-
- (5) Loss of future prospectus : Rs. 10,000/-
- (6) Other Misc. expenses : Rs. 08,000/-

Total : Rs. 45,000/-

4. It also awarded interest @ 12% per annum from the date of filing of the petition.

5. Being dissatisfied with the impugned order passed by the learned Tribunal, the appellant has filed the present appeal.

6. Notice of this appeal was issued to all the respondents.

7. Respondents 1 & 5 were served by publication but they did not appear. Initially, respondent No. 2, 3, 4 & 7 put in appearance through their

counsel but later on their counsel did not appear. Name of respondent No. 6 was deleted from the array of parties vide order dated 3rd

September, 1997 passed by this Court.

8. On 1st February, 2007, counsel for the appellant as well as counsel for respondent No. 4 appeared and the matter was adjourned for 5th

February, 2007. On 5th February, 2007 only counsel for the appellant appeared and none appeared for the respondents. As such arguments

advanced by learned Counsel for the appellant have been heard.

9. The main contention of learned Counsel for the appellant is that injured has suffered a permanent disability in this case and the disability

certificate has been proved on record. In spite of this, the learned Tribunal did not award any compensation on account of permanent disability, as

such the appellant is entitled in all a sum of Rs. 1 lac towards compensation.

10. It is an admitted case that left hand thumb of the appellant was amputated. However, learned Tribunal did not award any compensation qua

the amputation of thumb. In its judgment the Tribunal held that:

Amputation of left hand thumb will not cause total impairment in the agricultural

occupation of the injured. The claimant can still work as agriculturist and there should not be so much impairment in his occupation.

11. This finding of the learned Tribunal is perverse and does not appeal even to common sense.

12. Section 142 of the Motor Vehicles Act, 1988 defines as to what are permanent disablement. It reads as under:

Permanent disablement.- For the purposes of this Chapter, permanent disablement of a person shall be deemed to have resulted from an accident

of the nature referred to in Sub-section (1) of Section 140 if such person has suffered by reason of the accident, any injury or injuries involving:

(a) permanent privation of the sight of either eye or the hearing of either ear, or privation of any member of joint; or

(b) destruction or permanent impairing of the powers of any member or joint or

(c) permanent disfiguration of the head or face.

13. Since, it is a case of amputation of left hand thumb, the appellant, in these circumstances, is entitled for compensation due to the loss of this vital part of the body.

14. Appellant has claimed compensation amounting to Rs. 1 lac. However, he has not mentioned the different heads under which he has claimed

this compensation. In case of injuries, the compensation is generally allowed for the amounts spent on medicines, diet, conveyance, compensation

for pain & sufferings, loss of income, loss of future prospects, loss of enjoyment of life and permanent disablement, if any.

15. The appellant as per his statement is an agriculturist and was earning Rs. 4,000/- annually by way of cultivation. He remained in the hospital for

about five days and was operated upon and spent Rs. 7,000/- on medicines (though no document in this regard has been proved on record). He

has also spent about Rs. 60/- on his diet for six weeks and had visited the hospital for 10 to 15 days and incurred daily expenses of Rs 50/- to

60/- on this account.

16. The learned Tribunal has taken in to consideration all these expenses incurred by the appellant and thereafter awarded compensation under

different heads as mentioned above amounting to Rs. 45,000/-, which in my opinion is just and reasonable, except for the permanent disablement.

17. As far as the permanent disability is concerned, admittedly no compensation has been awarded on this account and since the learned Tribunal

itself has given a finding that there is an amputation of left hand thumb, so keeping in view the age of the appellant as he was 50 years old at the

time of accident and keeping in view the fact that he is an agriculturist, a sum of Rs. 25,000/- is awarded on account of permanent disablement.

18. Accordingly, in addition to compensation awarded by the learned Tribunal, a further sum of Rs. 25,000/- is awarded to the appellant towards

permanent disability". Respondents are directed to deposit this additional sum of Rs. 25,000/- with the trial court within one month from today,

failing which they shall be liable to pay interest @ 6% per annum till realisation. With this modification, the present appeal stands disposed of.