
(2007) 02 DEL CK 0092
In the Delhi High Court
Case No : FAO No. 28 of 1997

Suraj Prakash

APPELLANT

Vs

Kiran Kumar, Royal Surgical Co. and The Oriental Insurance
Co. Ltd.

RESPONDENT

Date of Decision : 08-02-2007

Acts Referred:

Citation : (2007) 2 ACC 717 : (2007) 138 DLT 432

Hon'ble Judges : Vidya Bhushan Gupta, J

Bench : Single Bench

Advocate : Non, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

V.B. Gupta, J.—The appellant has filed the present appeal against the judgment dated 2nd July, 1996 passed by Sh.Rakesh Kapoor,

Judge, MACT, Delhi vide which learned Tribunal awarded a sum of Rs. 1,45,000/- as compensation to the appellant on account of injuries

sustained by him in a road accident.

2. On 31st May, 1989 at about 7.45 a.m., appellant was coming towards F-Block, Krishna Nagar, Delhi and was sitting on the pillion seat of two

wheeler scooter No. DBZ 4675 which was being driven by his son Rajiv Kumar. When the scooter reached near house No. 7/19, Krishna Nagar,

car No. DIA-4117 came from behind at a very fast speed and struck against the scooter. Respondent No. 1 was driving the said car in a rash and

negligent manner. As a result of the impact, the bumper of the car struck against the left foot of the appellant which was badly injured and he got

compound fracture.

3. Appellant was removed to the hospital where he remained admitted as an indoor patient. He was operated upon and directed to report for

further check- up. At the time of the filing of the appeal, he stated that he had spent a sum of Rs. 10,000/- on his treatment, diet and conveyance

charges etc. In all, appellant claimed Rs. 5 lacs as compensation.

4. The factum of accident has not been disputed by the respondent No. 1 (car driver) and respondent No. 2, (owner of the car). The factum of

insurance has also been admitted by the respondent No. 3. The defense of the car driver is that the accident took place due to rash and negligent

driving of the scooter driver.

5. Vide impugned judgment, learned Tribunal awarded a sum of Rs. 1,45,000/- as compensation under the different heads as under:

(i) On account of treatment/purchase of medicines Rs. 15,000/-

(ii) On account of pain and agony Rs. 15,000/-

(iii) On account of special diet Rs. 5,000/-

(vi) On account of conveyance Rs. 5,000/-

(v) On account of loss of income Rs. 90,000/-

(vi) On account of future loss Rs. 15,000/-

Total Rs. 1,45,000/-

6. Being dissatisfied with the compensation awarded as adequate, present appeal has been filed by the appellant. During the course of the present

proceedings, respondent No. 2, owner of the car died and his legal representatives have been brought on record.

7. On 1st February, 2007, none appeared and as such the matter was renotified for 6th February, 2007.

8. On 6th February, 2007 again, none was present on behalf of the appellant as well as the respondents.

9. The appellant has challenged the impugned judgment on the grounds that the compensation awarded by the Tribunal is on much lower side in

respect of treatment/purchases of medicines and special diets etc; that Tribunal failed to take note of future prospects of the appellant; that Tribunal

wrongly disbelieved the receipts concerning payments to the Doctors on account of bandage etc.; that no compensation has been granted towards

future treatment to the appellant and lastly the Tribunal allowed interest @ 6% only which is on much lower side.

10. As per averments made in the claim petition, appellant was aged about 50 years at the time of accident and was earning Rs. 1,500/- per month.

11. On account of treatment/purchase of medicines, learned Tribunal has awarded Rs. 15,000/- and the grievance of the appellant is that this amount is on the lower side.

12. According to appellant, he has spent Rs. 60,000/- on treatment, conveyance and special diet and has proved the bills Ex.PW-2D/1-46 on

record. The Tribunal in its judgment has considered the expenses incurred with regard to the treatment of the appellant. It has been observed by

the learned Tribunal that the appellant has placed several receipts regarding purchase of medicines amounting to Rs. 8,000/- in all and has placed

on record three receipts for Rs. 2,250/-, Rs. 2,700/- and Rs. 2,700/- from Dr.S.C.Roy of Gandhi Nagar for the treatment of left leg infection

bandage. Appellant has also produced five receipts of Rs. 1,400/- each from Dr.G.S.Kalia of Gandhi Nagar for doing bandages of infected left

leg. It was also observed by the learned Tribunal that the appellant neither examined Dr. S.C.Roy nor Dr.Baldev Singh and the appellant has been

able to procure them for filing in the Court. Regarding the receipts issued by Dr.S.C.Roy which are dated 5th February, 1992, 5th August, 1992

and 6th February, 1993, these have been signed on 6th February, 1993, 5th August, 1992 and 1st July, 1993 respectively. As such the learned

Tribunal was not inclined to accept that the appellant had actually spent the above amount of Rs. 14,000/-. However, the learned Tribunal held

that since the appellant remained admitted in hospital for different periods, the expenses on account of treatment and purchase of medicines cannot

be said to be less than Rs. 15,000/-. So, the Tribunal awarded a sum of Rs. 15,000/- to the appellant on account of treatment/purchase of

medicines. It was also observed that the treatment of the appellant during his stay in GTB hospital was free of charge.

13. In view of the medical bills produced on record and keeping in view the

nature of injuries suffered by the appellant, the sum of Rs. 15,000/-

granted to the appellant on account of treatment and purchase of medicines is quite reasonable.

14. The Tribunal also awarded Rs. 15,000/- on account of pain and agony and this amount has not been challenged by the appellant. Further, the

Tribunal awarded Rs. 5,000/- towards special diet and Rs. 5,000/- towards conveyance. These amounts are also quite reasonable.

15. On account of loss of income, Rs. 90,000/- has been granted, which is in my opinion is quite reasonable since appellant was getting Rs.

1,500/- per month and he has suffered disability to the extent of 40% and remained on bed till 1994, i.e., for five years. So the appellant has been

duly compensated for the loss of his income.

16. With regard to future loss, a sum of Rs. 15,000/- has been awarded by the Tribunal and this amount is quite reasonable since the appellant had

attained the age of 56/57 years when the Tribunal passed the judgment.

17. Regarding further treatment as claimed by the appellant, there is nothing on record to show as to what treatment appellant has undergone after

passing of the award. Interest awarded @ 6% per annum from the date of filing of the petition till realisation, is quite reasonable keeping in view

the rate of inflation.

18. Accordingly, no infirmity can be found in the order passed by the learned Tribunal and the present appeal is hereby dismissed.