
(1989) 09 DEL CK 0002

In the Delhi High Court

Case No : First Appeal No. 127 of 1980 and Civil Miscellaneous Appeal No. 2195 of 1980

United India Insurance Company and Others

APPELLANT

Vs

Surjit Singh

RESPONDENT

Date of Decision : 26-09-1989

Acts Referred:

Citation : (1991) ACJ 399 : (1990) 41 DLT 110 : (1990) 18 DRJ 102

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

Bench : Single Bench

Advocate : P.K. Seth, for the Appellant;

Judgement

R.L. Gupta, J.

(1) This appeal has been filed against an Award dated 31st October, 1979 by the Tribunal in favor of the respondent in the sum of Rs. 45,684.00 . Appellants were allowed 60 days to make the payment failing which the respondent would have become entitled to interest at the rate of 6% per annum. The respondent also filed cross-objections registered as C.M. No. 2195/80 praying that the amount of the Award should be enhanced to Rs. One lac at least with costs and future interest.

(2) The facts leading to the filing of the present claim are that on 30.3-1971 at about 11-30 A.M. the respondent was crossing Najafgarh Road on cycle for going towards Bali Bazar. When he had crossed more than 3/4th of the road, the offending truck No. DII 5785 driven rashly, recklessly and negligently by appellant No. 4 came from Zakhira side and after going on wrong side, hit with its front left the rear portion of the cycle on which the respondent was going. As a result of the impact the cycle fell in front of the truck and the respondent fell down towards the left in between the two front wheels of the truck. Its rear wheel passed over the back of the respondent.

(3) I have heard Mr. P.K. Seth, learned counsel for the appellants. None has

appeared on behalf of the respondent in this appeal and in support of the cross-objections. In fact, arguments of Mr. P.K. Seth were heard on 22-9-89 also but I had kept this matter on the board hoping that somebody may appear in this matter in this week. But none has appeared.

(4) Mr. P.K. Seth has pressed only one point before me and that is that there was actually no medical evidence to prove the disability of the respondent and, Therefore, the sum of Rs. 36,000.00 awarded on , this account was actually not called for. On carefully going through the evidence recorded, I find that in this respect three witnesses were examined before the Tribunal. PW-7 is Dr. Indera Bami, Junior Medical Officer, Willingdon Hospital. PW-4 is Sh. Tula Ram, record clerk of Willingdon Hospital and PW-3 is Dr. Amarjit Singh Ahluwalia. He is a private B practitioner, who claimed to have treated the respondent from 14-4-71 to 23-8-71. It has come in his statement that the respondent is unable to do heavy work and whenever he goes for work, he gets pain in the places where he had fracture and he has to be given continuous treatment. Learned counsel for the appellants has argued that he was only a matriculate registered medical practitioner and, Therefore, the Tribunal should not have placed reliance on his statement. But this argument has no force. Besides this statement, there is evidence of PW-4 and PW-7. PW-4 had brought four sheets and one x-ray about the examination of the respondent by Dr. S.C. Ahuja. The respondent was taken to Willingdon Hospital after the accident in Emergency department where he was examined by PW-7 Dr.. Indera Bami. She found a number of injuries on the person of the respondent and advised X-ray lumbosacrel spine. Then the respondent was X-rayed and he was found to have fracture of left iliac sacrum, fracture lower end of radius left side, fracture transverse process of fourth number vertebra and fracture of superior ram us of right public bone. He was discharged from the hospital on 14th April, 1971. It is in the statement of PW-3 that thereafter be was treated by him.

(5) By going through the statements recorded by the Tribunal, I am of the view that the Tribunal was justified in assessing a sum of Rs. 36,000.00 towards pecuniary loss for 20 years that had been suffered by the respondent and was likely to be suffered by him in future.

(6) I am. Therefore, in agreement with the findings of the learned Tribunal in this reject. Since no other points has been pressed before me, Therefore, I do not find any merit in this appeal, same is hereby dismissed. I have also considered the cross-objections. The permanent damage suffered by the respondent-claimant has been properly quantified by the Tribunal in terms of money and, Therefore, I do not see any reason to enhance the amount of the award. The cross-objections have, thus, no merit and the same are hereby dismissed.