

Tejpal Vs. Deepak and ors

Tejpal Vs. Deepak and ors

SooperKanoon Citation : sooperkanoon.com/1137561

Court : Delhi

Decided On : Apr-16-2014

Judge : Suresh Kait

Appellant : Tejpal

Respondent : Deepak and ors

Judgement :

\$~13 * IN THE HIGH COURT OF DELHI AT NEW DELHI Judgment delivered on:

16. h April, 2014 % + MAC.APP.No.1113/2011 TEJPAL Represented by: Appellant Mr. Iqbal A. Rahmani, Advocate. Versus DEEPAK & ORS Represented by: Respondents Mr.Amit Gaur, Advocate for Respondent No.3/Insurance Company. CORAM: HON'BLE MR. JUSTICE SURESH KAIT SURESH KAIT, J.

(Oral) 1. The instant appeal is directed against the award dated 01.09.2011, whereby the learned Tribunal awarded compensation for an amount of Rs.2,76,816/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till realization of the amount for the injuries received by the appellant in the accident which took place on 06.03.2005.

2. Vide the present appeal, the appellant is seeking enhancement of the compensation, as noted above.

3. Mr. Iqbal A. Rahmani, learned counsel appearing on behalf of the appellant submits that the appellant has proved that he was working with PW2, Riassat, and was earning Rs.5,000/- per month on the date of the accident. The said PW2 appeared before the learned Tribunal and submitted that appellant Tejpal was working with him and he knew that appellant was earning Rs.5,000/- per month at the time of the accident.

4. Learned counsel further submits that keeping in mind the above noted facts, the learned Tribunal ought to have considered the salary of the injured as Rs.5,000/- per month, whereas wrongly taken his salary as Rs.3210.90, i.e., the minimum wages applicable to a semi-skilled worker at the relevant time as per the Minimum Wages Act, 1948.

5. Learned counsel further submits that the interest awarded by the learned Tribunal at the rate of 7.5% is also on lower side and the same may be enhanced.

6. On perusal of the evidence, it is revealed that during his cross-examination, PW2, Riassat, deposed that he was an illiterate person. He was tutored by the Advocate about the evidence by way of affidavit, otherwise he could not have told the contents of the affidavit. The affidavit of evidence was signed by him on the date of deposition, i.e., 26.04.2008. He further deposed that he and the appellant Tejpal belonged to the same village and were known to each other since childhood. The appellant was working with him and he knew that the appellant was earning Rs.5,000/- per month before the accident.

7. He denied the suggestion put by the respondent that the appellant was working with him and he deposed in favour of the appellant just to help him.

8. I have heard the learned counsel for the parties and perused the record.

9. Admittedly, the appellant/injured failed to prove his avocation and that he was earning before the date of the accident. Though, PW2, Riyasat has deposed that he knew that the appellant was earning Rs.5,000/-, but neither any witness has been examined nor any documentary proof has been placed by the appellant before the learned Tribunal in this regard.

10. The accident had taken place on 06.03.2005, the claim petition was filed on 05.03.2007 and the compensation was awarded vide award dated 01.09.2011. The learned Tribunal has awarded interest at the rate of 7.5% per annum from the date of filing of claim petition till realization of amount.

11. In view of the above discussion, I do not find any merit in the instant appeal. The same is accordingly dismissed. SURESH KAIT, J.

APRIL16 2014 sb

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com