

Krishan Kumar vs.baldev Singh & Ors.

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Court : Delhi

Decided On : Oct-11-2017

Appellant : Krishan Kumar

Respondent : Baldev Singh & Ors.

Judgement :

§~R-309 * IN THE HIGH COURT OF DELHI AT NEW DELHI Decided on:

11. h October, 2017 + MAC APPEAL2352011 KRISHAN KUMAR Through: versus Mr. Navneet Goyal, Advocate Appellant BALDEV SINGH & ORS.

... RESPONDENTS

Through: Mr. J.P.N. Shah and Ms. Komal Dhingra, Adv. for R-3 CORAM: HON'BLE MR. JUSTICE R.K.GAUBA JUDGMENT (ORAL) 1. The appellant was the claimant before the tribunal in accident claim case (MACT103910/08) instituted on 19.04.2008 to seek compensation for the injuries suffered in a motor vehicular accident that had occurred on 18.02.2008 due to the negligent driving of a truck bearing registration no.HR-38G-9319 admittedly insured against third party risk with the third respondent (insurer).

2. By judgment dated 29.01.2011, the tribunal accepted the said claim on principle of fault liability under Section 166 of the Motor Vehicles Act, 1988 holding the first respondent negligent in driving of the truck and, thus, also holding the second respondent vicariously liable, he being the owner of the truck. The tribunal found

the functional disability suffered by the claimant in the process to be to MAC Appeal No.235/2011 Page 1 of 3 the extent of 30% thus, on the basis of disability certificate (Ex. PW1/2) showing him to be a permanently disabled person on account of post traumatic stiffness of right ankle and knee, it awarded compensation in the total sum of Rs.1,90,735/-.The said amount includes besides loss of future earning capacity and special diet and conveyance charges, a lumpsum amount of Rs.75,000/- towards pain and suffering, inconvenience, mental shock, disfigurement and loss of amenities, etc.

3. By the appeal at hand, the claimants presses his grievance that all the said non-pecuniary heads of damages could not have been rolled into one lumpsum award in the manner done by the tribunal.

4. Having heard the learned counsel on both sides and having gone through the tribunals record, this court finds merit in the submission made as above. The disfigurement and loss of amenities has to be treated as distinct heads of non-pecuniary awards. The amount of Rs.75,000/- is treated as the award towards pain and suffering, inconvenience and mental shock. Rs.75,000/- each are added on account of disfigurement and loss of amenities of life. This would mean the award will stand enhanced by Rs.1,50,000/- (Rupees One lakh and fifty thousand). The enhanced portion of the award will carry interest at the rate of 9% p.a. (nine percent) from the date of filing the original petition till payment.

5. The insurer is directed to satisfy the modified award by requisite deposit with the tribunal within 30 days making it available to be released to the claimants. MAC Appeal No.235/2011 Page 2 of 3 6. The appeal is disposed of in above terms. R.K.GAUBA, J.

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