

Sushil Kumar Vs. Inder Singh and ors.

Sushil Kumar Vs. Inder Singh and ors.

SooperKanoon Citation : sooperkanoon.com/703452

Court : Delhi

Decided On : Oct-29-2004

Reported in : I(2005)ACC251

Judge : R.S. Sodhi, J.

Acts : Motor Vehicles Act - Sections 110A

Appeal No. : FAO 66/1990 and CM 1986/1993

Appellant : Sushil Kumar

Respondent : Inder Singh and ors.

Advocate for Def. : Salil Paul, Adv. for Respondent No. 3

Advocate for Pet/Ap. : O.P. Goyal,; Vikramjit Reen and; R.K. Bachchan, Advs

Judgement :

R.S. Sodhi, J.

1. This appeal is directed against the judgment dated 29th November, 1989, of the Motor Accident Claims Tribunal, Patiala House, New Delhi (for short "the Tribunal") in Suit No. 26/81, whereby the learned Tribunal has awarded a sum of Rs. 25,500/- on account of injuries sustained by the appellant-Sushil Kumar on his hand in an accident that took place on 10th October, 1980, wherein truck No.

DHL2093 driven by respondent Nos. 1 and 2 caused injury to the appellant, who was on his bicycle.

2. The brief facts of the case, as noted by the Tribunal, are as under :

"Sushil Kumar has filed the present petition for grant of compensation u/s 110 A of the Motor Vehicles Act claiming a sum of Rs. 2,00,000/- from the respondents on account of accident involving Truck No. DHL 2093 driven by Respondent No. 1 owned by Respondent No. 2 and unserved respondent No. 3. The petitioner being minor has filed the petition through his father Sh.Narinder Dev. The short facts of the case are that on 10-10-80 at about 11.00 a.m. the injured was going to Delhi Airport from his cycle sitting on the front rod of the cycle driven by Rohtas Singh (Deceased in Case No. 25/80). It is stated that the cycle was driven on its correct side but in the meantime the truck No. DHL 2093 driven by Respondent No. 1 in a very fast speed and in a rash and negligent manner came from behind and struck against the cycle due to which Sushil Kumar and Rohtas Singh (deceased) both fell down. The truck did not blow horn and tried to sped away but was stopped by the people at some distance. According to the petitioner due to this accident his right hand was fractured Along with fracture on the palm and received other injuries and he was removed to Safdarjung Hospital and also to the E.S.I. Hospital. According to the petitioner Rohtas Singh died later on and due to the fracture and again operated upon 24-10-80 and fresh plaster was applied. Thereafter the plaster has been changed for about five times. According to him the fractured arm has not yet been healed and there is apprehension that he may have to suffer permanent disability due to this accident. The studies have also been effected because of this accident as he was unable to attend the classes and had to be on leave. According to the petitioner a sum of Rs. 5,000/- was spent on medicines, treatment and special diet etc. According to the petitioner, the life of the petitioner has been considerably reduced and he has been adversely effected in regard to his earning capacity through out his life. It is stated that the Respondent No. 1 to 3 are jointly and severally liable to pay the compensation and as such a compensation of Rs. 2,00,000/- with interest @12% p.a. be awarded to him."

3. It is contended by counsel for the appellant that the amount of Rs. 25,500/- awarded by the Tribunal on account of injury caused to the claimant is on the lower side since the treatment of injury itself took more than five years and a substantial amount was spent on the treatment.

4. Counsel for the insurance company/respondent No. 3 submits that as per policy Ex.PW1/4 the liability of the insurance company is limited to Rs. 50,000/- and also that the treatment taken by the injured was primarily from government hospitals, where substantial expenses could not have been incurred.

5. Heard counsel for the parties and have gone through the statement of witnesses as also the material on record. It appears to me that at least a sum of Rs. 20,000/- would have been spent on the treatment and transportation and that pain and suffering caused would be substantial. In that view of the matter, I enhance the compensation from Rs. 25,500/- to Rs. 50,000/-. The aforesaid enhancement of Rs. 24,500/- shall be paid by the insurance company within a period of four weeks from today. In the event the enhanced amount is not deposited before the Tribunal by that time, the same shall carry an interest @10% per annum from the date of this order till the date of realisation.

6. With this, FAO 66/1990 is disposed of. CM 1986/1993 also stands disposed of.