

Surjit Rani Vs. Govind Ram

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Court : Delhi

Decided On : Feb-28-2000

Reported in : 2002ACJ369; 85(2000)DLT687; 2000(54)DRJ469

Judge : K. Ramamoorthy, J.

Appeal No. : FAO. No. 212 of 1994

Appellant : Surjit Rani

Respondent : Govind Ram

Judgement :

ORDER

K. Ramamoorthy, J.

1. The appeal is filed against the judgment of the Motor Accident Claims Tribunal dated 20.5.1994 awarding a sum of Rs. 70,000/- towards compensation for the disability suffered by the appellant in the accident with interest @ 12% p.a. from the date of filing of the claim petition.

2. The appellant met with an accident and she suffered a serious fracture and incurred permanent disability. She claimed Rs. 1 lakh towards compensation on the ground of permanent disability. She also claimed a sum of Rs. 10,000/- for her treatment and that was granted by the Tribunal.

3. Having held that the appellant suffered permanent disability, the Tribunal had awarded Rs. 30,000/- towards compensation. The Tribunal had also awarded another sum of Rs. 30,000/- for having undergone pain, suffering and mental agony.

4. In appeal, the appellant had claimed compensation of Rs. 1 lakh towards permanent disability and she also claimed interest from the date of the accident.

5. The Tribunal held that the accident took place due to rash and negligent driving of the vehicle DBL-1993 by Govind Singh, the second respondent before the Tribunal. In respect of the claim for treatment by the appellant, the Tribunal held:

'In view of my findings on issue No. 1 above that Smt. Surjit Rani suffered injuries due to rash and negligent driving of truck No. DBL 1933 by respondent No. 2, she is entitled to be recompensed by the owner, driver and insurer of the offending vehicle. Smt. Surjit Rani is entitled to be compensated for the pecuniary loss that she suffered due to injuries and she is also entitled to special damages for having suffered permanent disability which resulted in loss of her job. Smt. Surjit Rani claims to have spent Rs. 10,000/- on her treatment and her statement has not been challenged by way of cross-examination. There is no rebuttal to the statement that she spent Rs. 10,000/- on her treatment. Having regard to the nature of injuries suffered by the petitioner and the duration of her treatment, I am of the view that she must have spent special Rs. 10,000/- on her treatment including expenses on special diet and conveyance as she had to visit the hospital for follow up treatment even after discharge. She is entitled to recover this amount from the respondents.'

6. Considering the claim towards permanent disability, the Tribunal held:

'The disability certificate Ex. PW-8/2 discloses that her right leg was shortened by 2.5 inches which resulted in permanent disability to the extent of 40%. Smt. Surjit Rani was only 42 years of age at the time of accident and the effect of injuries sustained by her is ever lasting. I, therefore, allow Rs. 30,000/- to the petitioner for having suffered permanent disability.'

7. Referring to the claim of appellant for suffering mental agony, the Tribunal said:

'The petitioner underwent great shock and mental trauma. She not only remained in the hospital for two months but had to undergo two operations including one for skin grafting. Her permanent disability has cost her job. She had to suffer acute pain and sufferings for a considerable period as she remained under prolonged treatment. In my view, the petitioner is entitled to another sum of Rs. 30,000/- for having undergone pain, suffering and mental agony. Petitioner Surjit Rani is, therefore, entitled to a sum of Rs. 70,000/- by way of compensation from the respondent.'

8. The Tribunal had allowed the interest @ 12% per annum from the date of the petition on these grounds.

9. I have perused the claim petition, written statement and the evidence on record. Having held that the petitioner had suffered permanent disability to the extent of 40% as per the certificate PW. 8/2, the Tribunal ought to have considered it and fixed the compensation at Rs. 1 lakh (Rs. 70,000 + Rs. 30,000). In other respects, the award of the Tribunal, is confirmed and the award of the Tribunal stands modified to the above extent. therefore, the appellant shall be entitled to a sum of Rs. 1,10,000/- with interest @ 12% p.a. from the date of petition till the date of payment.

10. The balance amount payable as per this order shall be paid over to the appellant by the Tribunal after it is deposited by the New India Assurance Company with the Tribunal. The New India Assurance Company shall deposit the amount with the Tribunal on or before the 31st of May, 2000.

11. There shall be no order as to costs.

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