

**Ajit Singh Vs. Madan Singh**

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**Court :** Delhi

**Decided On :** Nov-16-2004

**Reported in :** 117(2005)DLT421; 2005(79)DRJ674; (2005)140PLR18

**Judge :** R.S. Sodhi, J.

**Appeal No. :** FAO 189/1990

**Appellant :** Ajit Singh

**Respondent :** Madan Singh

**Advocate for Def. :** None

**Advocate for Pet/Ap. :** O.P. Goel,; Vikramjeet Reen and; R.K. Bachchan, Advs

**Judgement :**

**R.S. Sodhi, J.**

1. This appeal is directed against the judgment dated 30.4.1990 of the Motor Accident Claims Tribunal in Suit No. 565/1979 whereby the learned Tribunal has passed an award in the sum of Rs. 79,000/- with cost together with simple interest @ 9 per cent per annum from the date of filing of the petition till passing of order in favor of the appellant while granting one month's time failing which the awarded amount shall carry an interest of 12 per cent per annum.

2. Brief facts of the case, as noted by the Tribunal, are as follows :

"On 29.8.1979 in the morning at about 9.30 a.m., the deceased Dalip Singh aged about 25 years was going on a motorcycle from his residence Gita Colony towards Faridabad on Mathura Road with Ajit Singh injured sitting as a pillion rider who were both brothers. It is stated that the motorcycle No. WBN 6692 was driven by Dalip Singh in a normal speed on their left hand side and in the meantime one truck No.DLL 1578 driven by respondent No. 1 Madan Lal came from opposite direction driven in a rash and negligent and reckless manner and when it came near the motorcycle driven by Dalip Singh the truck driven by respondent No. 1 took a sudden turn towards his right without giving any horn or signal and came on the road meant for the traffic going from Delhi to Faridabad side on which road the deceased and the injured were going on their motorcycle for going towards Faridabad side and in this process by driving the truck rashly and negligently, the respondent No. 1 struck against the motorcycle but it is stated that the respondent No. 1 had no right to take sudden turn which he has taken without waiting for the motorcycle to pass and it resulted into a fatal accident causing fatal injuries on the person of the driver of motorcycle Dalip Singh which resulted in this death and also caused greivous injuries on the person of Ajit Singh.

In the case of injured Ajit Singh a sum of Rs. 2,00,000/- with interest @ 12% p.a. Has been claimed as it is stated that due to this accident the petitioner has suffered various fractures on his left leg and left hip with injury on his left eye and face and head with shaken denture and fracture of ribs and it was stated that even at the time of filing of the petition in 1979 the petitioner injured Ajit Singh was still under the treatment who was working as Contractor by the name of M/s. Ajit Erectors and was earning a sum of Rs. 2000/- p.m. It is stated that Ajit Singh injured has suffered extreme pain and agony as a result of this accident and was likely to be disabled which was substantially reduced. The earning capacity which would amount to continuous loss of earning inspire of the fact that he has suffered a considerable amount on his treatment."

3. With the assistance counsel for the appellant, I have gone through the record of the case. It is the case of the appellant that the appellant had received various

injuries and fractures in the left leg and left hip including left eye which necessitated a protracted medical treatment and also affected his earning capacity. The amount of Rs. 79,000/- awarded to him is on the lower side.

4. PW-14 is Dr. Arvind Jaiswal who proved the medical report regarding injuries received by the appellant, Ajit Singh, while PW-15 is Ajit Singh, the injured himself, who has given a descriptive account of the incident. It is in evidence that the appellant, Ajit Singh, received fractures in the lower left leg and upper femur of the left leg. Ribs were also fractured besides injuries caused to the face and eye. The appellant wore plaster for about four months and continued treatment for eye from the all India Institute of Medical Sciences for about one-and-half years. PW-4, Dr. Vimal Menon, who examined the appellant at Dr. Rajendra Prasad Eye Centre, stated that certain operations were performed to rectify vision but the same could not be restore to original. Counsel also stated that the appellant spent Rs. 35,000/- for treatment which includes medicines, conveyance, special diet and also for prosecution of the case before the Motor Accident Claims Tribunal. The Tribunal, taking into consideration that the appellant had suffered for nearly one-and-half years, awarded a sum of Rs. 30,000/- under the head "Special Diet, Medical Expenses". Under the head "Pain and Suffering" the Tribunal awarded a sum of Rs. 25,000/-. The Tribunal also awarded a sum of Rs. 24,000/- on account of loss of earning during the period of recovery from the accident. Counsel contends that a sum of Rs. 25,000/- was awarded on account of pain and suffering is on the lower side. He also contends that when there was evidence on record that a sum of Rs. 35,000/- had been spent on treatment, there was no reason why the same should have been reduced to Rs. 30,000/-.

5. Having given my careful consideration to the material on record as also to the submissions made by counsel for the appellant, I am of the view that it would be safe to enhance the amount under the head "Medical Expenses, Conveyance and Special Diet" to Rs. 35,000/- instead of Rs. 30,000/- and under the head 'Pain and Suffering' to Rs. 50,000/- instead of Rs. 25,000/-. Ordered accordingly. The enhanced amount of Rs. 30,000/- shall be paid within a period of six weeks from today failing which it shall carry interest at the rate of nine per cent per annum w.e.f. the date of filing of the appeal till realisation.

6. With this modification of the judgment under challenge, FAO 189 of 1990 is disposed of. No order as to costs. Copy of this judgment be sent to the Insurance Company.

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