

Ramesh Singh Vs. Satbir and Others

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Court : Delhi

Decided On : May-07-2012

Judge : G.P. Mittal

Appeal No. : FAO. NO. 274 OF 2003

Appellant : Ramesh Singh

Respondent : Satbir and Others

Judgement :

G. P. MITTAL, J.

(ORAL)

1. The Appeal is for enhancement of compensation of Rs.87,800/- awarded to the Appellant for having suffered injuries in an accident which occurred on 20.01.1993.

2. Immediately after the accident, the Appellant was removed to Santom Hospital where he underwent surgery under general anesthesia and his left leg was kept in POP. He suffered multiple fractures of lower fibula and fracture of upper and lower fibula-right knee. He remained admitted in the hospital for 14 days. He took about four months to recover from the injuries and suffered permanent disability in respect of his left lower limb because of stiff knee with a stiff left ankle and shortening of left leg by half an inch. The Claims Tribunal awarded the compensation, which is tabulated hereunder:

Sl. No.	Compensation under various heads	Awarded by the Claims Tribunal
1.	Medical Expenses	Rs.24,000/-
2.	Loss of Income	Rs. 7,800/-
3.	Conveyance Expenses	Rs. 15,000/-
4.	Pain and Suffering	Rs. 5,000/-
5.	Disability	Rs. 30,000/-
	Total	Rs. 81,800/- (which has been wrongly calculated by the Claims Tribunal as Rs.87,800/-)

3. The following contentions are raised on behalf of the Appellant:

(i) The compensation awarded towards pain and suffering was very meager.

(ii) The Appellant who was working as a Constable in Delhi Police though he did not suffer any loss in his salary, but he was permanently crippled for life and also lost a challenging post. No compensation was awarded towards disfigurement and loss of amenities.

(iii) No compensation was awarded towards special diet and attendant charges.

PAIN AND SUFFERING:

4. The compensation of just Rs.5,000/- was awarded under this head. As stated earlier, the Appellant suffered multiple fractures right of the ankle fibula and knee. It is difficult to measure the pain and suffering in terms of money which has been suffered by the claimant on account of serious injuries caused to him in a motor accident. Since the compensation is required to be paid for pain and suffering an attempt must be made to award compensation which may have some objective relation with the pain and suffering underwent by the victim of a motor accident. For this purpose, the Claims Tribunal and the Courts normally consider the nature of injury; the parts of the body where the injuries were sustained; surgeries (if any)

underwent by the victim; confinement in the hospital and the duration of the treatment. Considering the period of hospitalization, recovery from the injury and the fact that the Appellant has suffered 40% disability in respect of his left lower limb and for the reasons stated earlier, the compensation of Rs.5,000/- was wholly inadequate. The same is increased to Rs.25,000/-.

LOSS OF AMENITIES IN LIFE AND DISABILITY:

5. The Claims Tribunal apart from awarding a sum of Rs.7,800/- on account of loss of income, awarded a sum of Rs.30,000/- towards loss of earning capacity and permanent disability. This was really towards loss of amenities in life. Taking into account the fact that the Appellant suffered 40% permanent disability and was working as a Constable in Delhi Police, I would enhance the compensation towards loss of amenities, loss of expectation in life, disfigurement and disability from Rs.30,000/- to Rs.60,000/-.

SPECIAL DIET:

6. Considering the nature of injuries, the Appellant was entitled to special diet, during the period of treatment. I would award a sum of Rs.15,000/- towards special diet.

7. The overall compensation thus stands enhanced from Rs.81,800/- (which has been wrongly calculated by the Claims Tribunal as Rs.87,800/-) to Rs.1,32,800/-.

8. It is urged by the learned counsel for the Appellant that in the year 1993 to 2000, the rate of interest was in the vicinity of 12%. The award of interest @ 6% was very low. Normally, interest is awarded as per the bank rate of interest on long term fixed deposits. In my view, the interest @ 6% was too low. The same is raised from 6% to 9% per annum from the date of the filing of the Petition till the date of the award by the Claims Tribunal and on the enhanced amount of Rs.51,000/- @ 7.5% per annum from the date of the award upto the date of payment.

9. The Respondent No.3 New India Assurance Co. Ltd. is directed to deposit the enhanced amount along with interest within six weeks with the UCO Bank, Delhi

High Court Branch.

10. Since the accident occurred almost 19 years back, the enhanced compensation shall be released to the Appellant immediately on deposit.

11. The Appeal is allowed in above terms.

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