

Raghubir Singh Vs. Kuldeep and ors.

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Court : Delhi

Decided On : Apr-08-2013

Judge : Suresh Kait

Appellant : Raghubir Singh

Respondent : Kuldeep and ors.

Judgement :

\$~19 * IN THE HIGH COURT OF DELHI AT NEW DELHI Judgment delivered on:

8. h April, 2013 % + MAC.APP. 362/2012 RAGHUBIR SINGH Through: Appellant Mr.Sanjeev Srivastava, Advocate. Versus KULDEEP & ORS. Through: Respondents Mr. M.M.Hashmi, Advocate for Respondent No.2. Mr.J.P.N.Shahi, Advocate for Respondent No.3/Insurance Company. CORAM: HON'BLE MR. JUSTICE SURESH KAIT SURESH KAIT, J.

(Oral) MAC.APP. 362/2012 & CM No. 6204/2012 (for delay) 1. The instant appeal has been filed for enhancement of the compensation amount on the ground that the learned Tribunal has failed to appreciate the fact that due to the said accident, the appellant suffered 40% permanent disability, treated for a period of six months and he suffered acute pain and suffering owing to the said injuries as the learned Tribunal has awarded a meagre amount of Rs.50,000/- each towards pain and suffering and loss of amenities/expectations of life, which is on a very lower side.

2. It is contended by the appellant before the learned Tribunal that he suffered 40% permanent physical impairment due to this accident and placed relied on the disability certificate Ex.PW2/54 issued by Pt. Madan Mohan Malviya Hospital, Malviya Nagar, New Delhi.

3. Learned counsel for the Insurance Company has argued that the disability suffered by the petitioner (appellant herein) cannot be taken to be 40% in relation to whole body as the same is only in relation to right lower limb and the petitioner has also failed to examine the concerned doctors who have issued the said disability certificate or the doctors who have treated him.

4. It is further contended by the learned counsel for the Insurance Company that the petitioner/appellant has not suffered any loss of income due to this accident as he continued to remain in his same job and has been regularly getting his salary and there is no financial loss in his earning capacity due to the alleged disability.

5. I note, the learned Tribunal has opined that the disability suffered by the petitioner/appellant will adversely affect his working capacity and efficiency as he cannot work with the same efficiency with which he was working earlier.

6. Resultantly, keeping in view the facts and circumstances of the case, the learned Tribunal granted a sum of Rs.50,000/- as compensation for pain and suffering and Rs.50,000/- as compensation for the loss of amenities/ expectations of life.

7. In my considered opinion, there is no infirmity in the order dated 08.04.2011 passed by the learned Tribunal as it rightly awarded the compensation amount in favour of the appellant/claimant.

8. Therefore, finding no merits in the instant appeal, the same deserves dismissal. Moreover, as the instant appeal has been filed with delay of 244 days, therefore, this appeal, being barred by limitation, deserves dismissal on this ground also.

9. In view of the above, the instant appeal and the application are dismissed.
SURESH KAIT, J.

APRIL 08 2013 sb

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