

(1990) 01 DEL CK 0050

Delhi High Court

Case No: F.A.O. No. 53 of 1981 and Cross-objections C.M. No. 986 of 1981

Delhi Transport Corporation and
Another

APPELLANT

Vs

Amarjit Kaur

RESPONDENT

Date of Decision: Jan. 12, 1990

Citation: (1990) ACJ 474

Hon'ble Judges: S.B. Wad, J

Bench: Single Bench

Advocate: H.S. Dhir, for the Appellant; G.K. Sharma, for the Respondent

Final Decision: Dismissed

Judgement

S.B. Wad, J.

In an accident caused by D.T.C. bus No. DLP 102 on 15.7.1974 the claimant-Respondent, Amarjit Kaur, received serious multiple injuries, including fracture of her left leg. She had to undergo seven operations by the time the petition was heard and her left leg was shortened by 1 1/2 inches.

The Tribunal awarded Rs. 20,250/- as compensation. The D.T.C. has filed this appeal, being FAO. No. 53 of 1981, against the said award. The claimant has filed the cross-objection, being C.M. No. 986 of 1981, claiming Rs. 5 lakhs as compensation.

2. The case of the claimant is that when she, along with her friends, was standing near the bus stop, the bus in question came from behind at high speed and knocked her, causing grievous injuries suffered by her. PW 1 is an eye-witness who has supported the claimant's version. In the written statement the D.T.C. had contended that the claimant suffered injuries when she slipped while boarding the running bus and got struck against the pavement. However, in their oral evidence the driver and the conductor of the bus changed the version and stated that with a view to board the bus the claimant was crossing the iron railing fixed on the footpath and that the iron railing pierced through her thigh and she fell down on

the footpath. The Tribunal found that the evidence of the eye-witness and that of the claimant was quite truthful, while that of the D.T.C. was wholly unreliable and untrustworthy. I have been taken through the evidence and I am in entire agreement with the Tribunal in its appreciation of the evidence. I also agree with the Tribunal that it was the rash and negligent driving of bus No. DLP 102 which caused the accident and injury to the claimant.

3. Counsel for the D.T.C. has, however, submitted that the claim petition was delayed by four months and was, therefore, not maintainable. He submits that the claimant has not shown sufficient cause, within the meaning of Section 110-A (3). The Tribunal found the plea of limitation untenable. The Tribunal held that considering the injuries received by the claimant there was sufficient cause for condoning the delay. It is an admitted fact that the claimant was operated and was being treated in three different government hospitals from time to time. She had undergone seven operations and was required to visit the hospital almost daily. She has explained in her application for condonation of delay that due to her frequent visits to hospitals she could not collect the necessary material for filing the claim petition. I find that the explanation is eminently convincing and the Tribunal was right in rejecting the plea of limitation raised on behalf of D.T.C.

4. That takes us to the question of the amount of compensation claimed by the claimant. The claimant has suffered multiple fractures and she could not be restored to normalcy even after seven operations. The doctor who attended her last in the government hospital, PW 2, stated in his evidence that as a result of the injuries her left leg is shortened by 1 1/2 inches, which is a permanent disability. He has further stated that after a further operation it might be possible to get over the disability.

5. The claimant was only 21 years old at the time of accident and had passed her B.A. examination. From the evidence of the father of the claimant it is clear that her engagement for marriage was required to be called off because of the accident. It is also true that some difficulties were created in her further study. She had not completely recovered from the injuries and the treatment continued for a fairly long time. I, therefore, find that the amount of Rs. 16,000/- awarded by the Tribunal towards general damages is inadequate. The claimant is entitled to Rs. 30,000/- as general damages. The Tribunal has also not sufficiently appreciated the fact that the claimant was operated several times and the treatment continued for a long time. Apart from the medicines and the diet required for early recovery, the claimant must have spent large amount on conveyance for going to the hospital. In granting special damages the question of postponement of marriage and higher education has also to be reckoned. I award a lump sum of Rs. 10,000/- towards special damages. The claimant is thus entitled to Rs. 40,000/- as compensation. She would also be entitled to simple interest at the rate of 6 per cent per annum on the additional amount of compensation from the date of the petition till the date of payment. It may be noted that the D.T.C. has already paid a sum of Rs. 20,250/- with

interest as awarded by the Tribunal and the claimant has received that amount on furnishing security.

6. The appeal of the D.T.C, viz. F.A.O. No. 53 of 1981, is dismissed. Cross-objection, being CM. No. 986 of 1981, is allowed. The security filed by the claimant for withdrawal of Rs. 20,250/- shall stand discharged. The additional amount of compensation and interest should be paid within one month from today.