(2012) 02 DEL CK 0501

Delhi High Court

Case No: MAC. APP. 240 of 2008

HAV. SKT. Sunil Kumar J		APPELLANT
	Vs	
HAV. Nand Lal and Others		RESPONDENT

Date of Decision: Feb. 23, 2012

Citation: (2012) 02 DEL CK 0501

Hon'ble Judges: G.P. Mittal, J

Bench: Single Bench

Advocate: Ramesh Kumar, for the Appellant; Anil Gautam, for the Respondent

Final Decision: Allowed

Judgement

G.P. Mittal, J.

The Appellant impugns the judgment dated 26.11.2007 passed by the Claims Tribunal whereby a compensation of `9,01,223/- was awarded in favour of the Appellant for having suffered injuries resulting into a permanent disability to the extent of 55%. During the pendency of the Appeal, an application for additional evidence has been filed stating that the Appellant was not given reasonable opportunity to adduce evidence of expenditure in respect of his future treatment.

2. I have perused the record. By an order dated 29.07.2005 the case was listed for the Appellant''s evidence on 19.11.2005. On 19.11.2005 the learned Presiding Officer was on leave. The Reader of the Court instead of listing the matter for evidence of the Petitioner or for proper orders, listed it for Respondent''s evidence.

3. The evidence of the Appellant was never closed, thus it is apparent that the Appellant was not granted adequate opportunity to adduce his evidence.

4. In para 14 of the impugned judgment dated 26.11.2007 it has been held as under:-

14. Petitioner has also claimed Rs. 3,00,000/- as regard future treatment and a certificate given by Dr. H.Manjunathan to that effect that petitioner needs total knee replacement but the Doctor by whom certificate is given, has not been examined on behalf of the petitioner and there are no supporting documents s regard the actual expenses which petitioner might have to incur on his future treatment except an estimate bill. The claim on that account is declined.

5. Since the Appellant was not granted sufficient opportunity to produce his evidence with regard to the future treatment, the Tribunal erred in declining any compensation on the ground that no evidence has been produced by the Appellant in this regard.

6. The impugned order so far as it relates to the grant of compensation in respect of future treatment is set aside and the case is remanded back to the Motor Accident Claims Tribunal who shall grant an opportunity to the Appellant to adduce evidence with regard to the future treatment and determine the compensation, if any, payable to the Appellant for his future treatment. The Appellant shall be at liberty to produce additional documents before the Claims Tribunal.

7. The Appeal is allowed in above terms.

8. The Appellant would be entitled to file a fresh Appeal and take any other ground available to him after the judgment is passed by the Claims Tribunal.

9. The parties are directed to appear before the Claims Tribunal on 22.03.2012. Trial Court record be returned immediately.