

CASE NO.:
Appeal (civil) 2869-2870 of 2008

PETITIONER:
RAEESH AHMAD

RESPONDENT:
UNITED INDIA INSURANCE LTD. & ANR

DATE OF JUDGMENT: 21/04/2008

BENCH:
K.G. BALAKRISHNAN & R.V.RAVEENDRAN

JUDGMENT:
JUDGMENT

JUDIS

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2869-2870 OF 2008
(Arising out of SLP(C)No. 15357/2006)

RAEESH AHMAD

.. APPELLANT

VS.

UNITED INDIA INSURANCE LTD. & ANR.

.. RESPONDENTS

ORDER

Leave granted.

Heard both sides.

2 The appellant sustained serious injuries in a motor accident involving a tempo belonging to second respondent and insured with first respondent and another tempo in which he was travelling. He was admitted to an hospital and underwent surgery twice for his fractured leg which required insertion of a rod. He was in the hospital for more than eight months.

3 He filed a claim petition before the Motors Accident Claims Tribunal claiming compensation of Rs.3,00,000/-. The Tribunal awarded Rs.48,000/- towards medical expenses and Rs.25,000/- towards future medical expenses.

In regard to loss of future earnings, it found the disability to be 30%. The Tribunal assessed the annual income of appellant as Rs.36,000/-; and as the appellant had suffered 30% disability, it calculated the future loss of earning with reference to a multiplier of 16, that is 30% of 36000 X 16=172800/- (rounded off to Rs.1,72,000/-). Thus, it awarded Rs.2,45,000/- in all as compensation.

4 On appeal by the first respondent, the High court reduced the compensation to Rs.99,000/-. The High court was of the view that the Tribunal ought not to have taken the permanent disability as 30% as the disability could not be said to be permanent as there was likelihood of improvement. It therefore, deleted the award of Rs.1,72,000/- towards loss of future earning capacity. It however added Rs.11,000/- as loss of income for nine months (period of treatment) and Rs.15000/- towards paid and suffering to arrive at Rs.99,000/- as compensation. The said judgment is challenged by the claimant.

5 We find that the High Court has misread the disability certificate. The certificate dated 23.2.2004 showed that disability as 30%. There is no acceptable medical evidence to show that the condition of appellant will improve or that the permanent disability will disappear.

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4 Having regard to the said position, we are of the view that the High Court should not have interfered with the quantum of compensation. We are of the view that the total compensation of Rs.2,45,000/- awarded by the Tribunal was just compensation. Accordingly, we allow these appeals and set aside the judgment of the High Court and restore the Award of the Tribunal.

.....C.J.I.
(K.G. BALAKRISHNAN)

.....J.
(R.V.RAVEENDRAN)

NEW DELHI;
APRIL 21, 2008.

JUDIS