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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ MAC.APP.No.709/2006

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Date of decision: 2nd September, 2009

CHITRANJAN VOHRA Appellant
Through : Mr. Parminder Singh Goindi, Adv.

versus

NATIONAL INSURANCE CO.LTD. & ORS. Respondents
Through : Mr. Pradeep Gaur, Adv.

CORAM :-
THE HON'BLE MR. JUSTICE J.R. MIDHA

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| 1. | Whether Reporters of Local papers may be allowed to see the Judgment? | YES |
| 2. | To be referred to the Reporter or not? | YES |
| 3. | Whether the judgment should be reported in the Digest? | YES |

JUDGMENT (Oral)

1. The appellant has challenged the award of the learned Tribunal whereby compensation of Rs.3,88,771/- has been awarded to the appellant. The appellant seeks enhancement of the award amount.

2. The accident dated 11th August, 1998 resulted in grievous injuries to the appellant. The appellant was sitting on the pillion of two wheeler scooter driven by her husband when she was hit by tempo bearing No.DL-3C-G-6881. The appellant fell down on the road and suffered grievous injuries. The appellant suffered compound fracture of right tibia and fibula. The appellant was admitted in Base Hospital from 11th August, 1998 to 5th November, 1998 where fixator was applied in her right lower

limb. The appellant could not move due to the fixator. There was non-union fracture of right tibia and fibula which required bone grafting. The appellant was again admitted on 26th February, 1999 for operation and she was discharged on 4th March, 1999. The doctor attending the appellant appeared in the witness box and deposed that the appellant would require future medical treatment for removal of the plates from her leg. The permanent disability of the appellant has been assessed as 12%. The learned Tribunal has awarded a sum of Rs.3,88,771/- under various heads mentioned in the impugned award.

3. The learned counsel for the appellant submits that the appellant remained hospitalized for about three months' and was bed ridden for six months and, therefore, the compensation for pain and sufferings of Rs.50,000/- is inadequate. The learned counsel further submits that the compensation of Rs.1,00,000/- towards the 12% permanent disability and loss of amenities of life is also on a lower side. The learned counsel submits that the appellant was earning Rs.15,444/- and applying the multiplier of 12, taking the permanent disability to be 12%, the loss of income of the injured should be assessed as Rs.2,66,872/-. The learned counsel further submits that no compensation for future treatment has been awarded to the appellant.

4. With respect to the claim of Rs.2,66,000/- of the appellant towards the loss of income, it is submitted by learned counsel for the respondent that the appellant continued to work till her retirement and, therefore, there was no actual loss of income.

This is not disputed by learned counsel for the appellant.

5. In that view of the matter, the claim of Rs.2,66,872/- towards the loss of income is not sustainable.

6. The learned Tribunal has awarded Rs.50,000/- towards the pain and sufferings which is on a lower side. Considering the nature of injuries suffered by the appellant and further that the appellant remained hospitalized for three months, underwent multiple surgeries and was bed ridden for about six months, the compensation for pain and sufferings is enhanced from Rs.50,000/- to Rs.1,00,000/-. The learned Tribunal has awarded Rs.1,00,000/- towards the permanent disability and loss of amenities of life. The compensation of Rs.1,00,000/- awarded by the learned Tribunal is treated towards the permanent disability suffered by the appellant. With respect to loss of amenities of life, which is a separate head, Rs.50,000 is awarded to the appellant. The learned Tribunal has not awarded any compensation towards the future treatment. The doctor attending the appellant has deposed in evidence that the appellant may have to undergo another surgery for removal of the implanted plates and Rs.15,000/- would be the expected expenditure. Considering the evidence on record, Rs.15,000/- is awarded to the appellant towards the future treatment.

7. The appeal is allowed and the award amount of Rs.3,88,771/- is enhanced by Rs. 1,15,000/-. The appellant is entitled to total compensation of Rs.5,03,771/- along with interest @ 7% per annum from the date of filing of the petition till

realization. The enhanced award amount be deposited by respondent No.1 with the UCO Bank, Delhi High Court Branch within 30 days.

8. The appellant shall open a Saving Bank Account with UCO Bank, Delhi High Court Branch and give the account number and other details to learned counsel for respondent No.1 who shall directly deposit the cheque with UCO Bank in the Saving Bank Account of the appellant.

9. The cheque drawn in the name of appellant be handed over to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) and the proof of deposit be furnished to learned counsel for the appellant.

10. Copy of this order be given 'Dasti' to learned counsel for both the parties under signatures of Court Master.

11. Copy of this order be also sent to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) through the UCO Bank, High Court Branch under the signature of Court Master.

J.R. MIDHA, J

SEPTEMBER 02, 2009

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