

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ MAC.APP.No.385/2009**

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Date of decision: 3rd November, 2009

LAJWANTI

..... Appellant

Through : Mr. R.K. Rawat, Adv.

versus

BHAG CHAND & ORS.

..... Respondents

Through : Ms. Hetu Arora, Adv. for R-3.

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.2,62,655/- has been awarded to the appellant.

2. The accident dated 10th October, 2000 resulted in grievous injuries to the appellant who filed the claim petition before the learned Tribunal.

3. The learned counsel for the appellant submits that the appellant has suffered permanent disability in respect of right leg but no compensation has been awarded for permanent disability on the ground that the medical certificate – Ex.PW5/A shows the disability relates to left leg with ankle and restricted movement of ankle whereas the appellant suffered the injuries on the right side

of the body in the accident in question.

4. Vide order dated 11th August, 2009, the appellant was directed to appear before the Senior Orthopedic Surgeon, Batra Hospital for examination.

5. The appellant has been examined by Dr. Sameer Grover, Senior Orthopedic Surgeon, Batra Hospital in terms of the order dated 11th August, 2009 and the medical certificate dated 7th September, 2009 has been today placed on record. As per the said certificate, the appellant has suffered 40% disability of right lower limb and 20% with respect to the whole body. On the basis of the certificate dated 7th September, 2009 issued by Batra Hospital, it is clear that the appellant has suffered permanent disability in respect of the right lower limb and the findings of the learned Tribunal are not correct.

6. In view of the above, the appeal is allowed and the impugned award is set aside in so far as the learned Tribunal has rejected the claim of compensation in respect of the permanent disability suffered by the appellant.

7. The case is remanded back to the learned Tribunal to determine/assess the compensation payable to the appellant relating to the permanent disability suffered by her. The original report of Dr. Sameer Grover dated 7th September, 2009 be sent to the learned Tribunal along with the LCR.

8. The parties are directed to appear before the learned Tribunal on 2nd December, 2009.

9. The learned Tribunal shall conduct an inquiry under Section 168 of the Motor Vehicles Act and pass a fresh award in accordance with law. The amount received by the appellant in terms of the award of the learned Tribunal shall be retained by the appellant subject to the final outcome of the claim petition. Needless to state that the learned Tribunal shall grant appropriate opportunity to both the parties before deciding the claim petition afresh and passing the award.
10. Copy of this order be given 'Dasti' to learned counsel for the parties under signature of Court Master.

NOVEMBER 03, 2009

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J.R. MIDHA, J