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IN THE HIGH COURT OF DELHI AT NEW DELHI

MACA No.516/2007Date of Decision: September 23, 2010

KISHORE KUMAR Appellant
 through Mr. Pramod Kharwar, Advocate
 with Mr. Santosh Chaurihaa, Advocate
 versus

RAM PHAL AND OTHERS Respondents
 through Mr. R.R.Saini, Advocate for
 respondents No.1 and 2.
 Mr. A.K.Mishra, Advocate with Ms. Neelam
 Singh, Advocate for respondent No.3.

CORAM:
 HON'BLE MISS JUSTICE REKHA SHARMA

1. Whether the reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether the judgment should be reported in the 'Digest'?

REKHA SHARMA, J. (ORAL)

This appeal has been preferred by the appellant against the award of the Motor Accident Claims Tribunal dated February 28, 2007. The Claims Tribunal has awarded a total sum of ₹ 1,08,270/- along with interest thereon @ 6% per annum to the appellant who has suffered 35% permanent disability in a road accident that took place on July 02, 2004.

The grievance of the appellant is that even though he had proved on record the disability certificate Exh.PW1/7 issued to him by

Hindu Rao Hospital and as per the certificate, he had suffered 35% permanent disability in relation to his right leg, the learned Claims Tribunal ignored the certificate and simply granted him ₹ 30,000/- on account of disability.

Having heard learned counsels for the parties, I am of the view that the Claims Tribunal has erred in not taking into consideration the disability certificate and in not calculating the compensation with reference to the certificate.

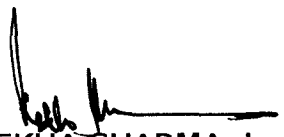
It is not disputed by the learned counsel for the appellant that the disability of 35% as assessed in the certificate is only in relation to one limb of the body and that it will be much less if assessed vis-à-vis the whole body. Since the certificate does not indicate the disability suffered qua the whole body, I assume the functional disability in relation to the whole body as 18%.

The learned Claims Tribunal has assumed the income of the appellant as ₹ 3,045/- per month. If the loss of income is calculated with reference to 18% disability suffered by the appellant and by taking the income of the appellant as ₹ 3,045/-, the same comes to ₹ 548/- per month. The annual loss on being multiplied by 12 comes to ₹ 6,576/- which is rounded off to ₹ 6,600/-. The appellant at the time of the accident was 27 years of age. Hence, the multiplier of 17 is applicable to his case. The annual loss of income when multiplied by 17 comes to ₹ 1,12,200/-. The Claims Tribunal has already awarded ₹ 30,000/- to the appellant on account of disability. Thus, this sum of ₹ 30,000/- is deducted from ₹ 1,12,200/-. The balance comes to ₹ 82,200/-. The Insurance Company is directed to deposit this balance

of ₹ 82,200/- with the Motor Accident Claims Tribunal within four weeks, in addition to the sum already awarded to the appellant by the Claims Tribunal.

The appellant has been awarded interest @ 6% per annum which should have been @ 7.5% per annum. Hence, the Insurance Company is directed to pay interest on the total compensation @ 7.5% per annum instead of 6% per annum.

With this direction, the appeal is disposed of.


REKHA SHARMA, J.

SEPTEMBER 23, 2010
PC/ka