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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on: 27th January, 2015

+ **MAC.APP. 1080/2013**

RELIANCE GEN. INS CO. LTD.

..... Appellant

Through: Ms. Shantha Devi Raman,
Advocate with Mr. Garud M.V.,
Advocate

versus

SH. TAPAN ROY & ORS.

..... Respondents

Through: Mr. Sanjeev Srivastava,
Advocate for Respondent no.1.

CORAM:
HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The Appellant impugns judgment dated 17.08.2013 passed by the Motor Accident Claims Tribunal (the Claims Tribunal) whereby compensation of Rs.16,12,000/- was awarded in favour of Respondent no.1(injured) for having suffered injuries in a motor vehicular accident which occurred on 17.06.2012

which resulted in the amputation of Respondent no.1's right hand below elbow.

2. Referring to *Raj Kumar v. Ajay Kumar*, (2011) 1 SCC 343, the learned counsel for the Appellant submits that since the Appellant was granted compensation of loss of earning capacity to the extent of 84% amounting to Rs.10,75,000/-, Respondent no.1 ought not to have been awarded Rs.1,50,000/- each towards pain and suffering and loss of amenities and loss of expectation of life and disfigurement. Para 15 of the *Raj Kumar(supra)*, is extracted hereunder:

“15. It may be noted that when compensation is awarded by treating the loss of future earning capacity as 100% (or even anything more than 50%), the need to award compensation separately under the head of loss of amenities or loss of expectation of life may disappear and as a result, only a token or nominal amount may have to be awarded under the head of loss of amenities or loss of expectation of life, as otherwise there may be a duplication in the award of compensation. Be that as it may.”

3. Admittedly, in the instant case, loss of earning capacity to the extent of 84% was granted by the Claims Tribunal. In *Raj Kumar(supra)*, the Supreme Court only referred to the compensation towards loss of amenities and expectation of life. So, the amount of compensation of Rs.1,50,000/- each towards pain and suffering and disfigurement cannot be faulted. However, the compensation of Rs.1,50,000/- towards loss of amenities of life is reduced to from Rs.1,50,000/- to Rs.25,000/-

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4. The overall compensation is reduced by Rs.1,25,000/- which comes to Rs.14,87,000/-.
 5. Since the entire compensation was deposited in this Court in pursuance of order dated 26.11.2013, the excess amount of Rs.1,25,000/- along with proportionate interest shall be released to the Appellant Insurance Company.
 6. Rest of the compensation shall be disbursed/held in Fixed Deposit in terms of the orders passed by the Claims Tribunal.
 7. The appeal is disposed of in above terms.
 8. Pending applications also stand disposed of.
 9. Statutory amount of Rs.25,000/-, if any, shall also be refunded to the Appellant Insurance Company.

(G.P. MITTAL)
JUDGE

JANUARY 27, 2015

pst