

\$~30

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

+ **MAC.APP. 90/2016**

ICICI LOMBARD GENERAL INSURANCE CO LTD

..... Appellant

Through: Mr. Sandeep Jha, Adv.

versus

RAM KISHAN & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **02.02.2016**

CM No.3392/2016 (for exemption)

Exemption allowed, subject to just exceptions.

MAC.APP. 90/2016 & CM No. 3391/2016 (stay)

Heard.

Perused.

The appeal at hand, is directed against the judgment dated 31.10.2015 of the motor accident claims tribunal ("the tribunal") whereby the claim petition of the first respondent herein, registered as MACT case no.144/2014 was allowed and compensation in the sum of ₹30,77,131/- with interest @ 9% per annum from the date of filing of petition till actual deposit was granted on account of injuries suffered by him in motor vehicular accident

that occurred on 09.06.2007 while travelling in bus bearing registration no.HR-55B-3244 of Haryana roadways (third respondent) which was concededly insured for the relevant period with the insurance company against third party risk.

Noticeably, the claimant proved before the tribunal that he had suffered functional disability to the extent of 50% in relation to the whole body. He was 38 years at the time of accident. He has been an employee of Haryana Police. The tribunal did not award any compensation for loss of income for the reason that the claimant was in receipt of regular salary and, thus, there was no loss on that account. However, it granted a sum of ₹21,03,300/- on account of loss of future income on the basis of functional disability suffered to the extent of 50%. This portion of the award is the bone of contention raised by the insurance company in the appeal at hand. The argument raised is that since no award of compensation was granted for loss of income, there was no occasion for any loss of future income.

In the considered view of this court, the submission of the insurance company is devoid of substance. There is no connection between the loss of income in the present and in the future. The claimant did suffer 50% functional disability of permanent nature in relation to the whole body. A case was made out for loss of future prospects in income. Given the fact that the claimant has been an employee of Haryana Police, disability suffered is bound to adversely affect future prospects in his career. The receipt of salary for the period of recuperation is no indication that he will be insulated against such future loss.

The appeal is unmerited and is accordingly dismissed with the application in *limine*.

R.K.GAUBA, J

FEBRUARY 02, 2016/ssc