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

Date of Decision: 12th February, 2016

\+ **MAC.APP. 171/2007**

SAMUNDER SINGH ..... Appellant

Through: Adv. (appearance not given).

versus

INDER SINGH & ORS. ..... Respondents

Through: Mr.Pankaj Seth, Adv. for R-3.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The appeal under Section 173 of Motor Vehicles Act, 1988 (MV Act) questions the computation of compensation granted by the Motor Accident Claims Tribunal (The Tribunal) on the petition under Section 166 of Motor Vehicles Act, 1988 (MV Act) of the appellant, registered as suit No.424/2005, on the ground it is not adequate.

2. The claim petition was preferred by the appellant on 29.07.2003 seeking compensation on account of injuries suffered in motor accident that occurred at about 6.45 a.m. on 22.11.2002. The appellant, born on 05.01.1952, was employed as driver in Delhi Transport Corporation (DTC) and at the time of accident, was driving DTC bus bearing No.DL1PA3406. It is stated that when the bus driven by the appellant came out on the road, it was hit by bus bearing No.DL1PB3521 (the offending vehicle) driven by the first respondent.

3. The offending vehicle was owned by the second respondent and concededly insured against third party risk with the third respondent. The appellant suffered injuries and consequent thereto, he has been rendered permanently disabled. He proved permanent disability certificate (Ex.PW4/1) on account of malunited fracture of tibia with stiff ankle (of the right lower limb) the disability assessed to the extent of 50%.

4. The Tribunal assessed the compensation to be ₹ 4,25,000/- but reduced it to ₹2,12,500/- on the basis of finding that the appellant was guilty of contributory negligence to the extent of 50%.

5. Though the appeal was filed on several grounds, at the hearing the only ground pressed is that the appellant has been wrongly denied the benefit of compensation for loss of future earnings.

6. It is noted that the appellant was in receipt of salary of ₹9,287 at the relevant point of time. Since he has been found guilty of contributory negligence, the loss of future earnings would have to be reduced correspondingly. Thus, the loss of future earnings for purposes of compensation comes to ₹4,644/- . Having regard to the fact that the appellant has been rendered permanently disabled to the extent of 50%, the loss of future earnings is computed at ₹2,322/- per month.

7. The evidence on record shows that the appellant retired from DTC service on 31.01.2007, on attaining the age of superannuation of 55 years fixed for the post of Drivers. In view of this, the future loss of earnings may be computed by adopting the multiplier of 11. [*Sarla*

Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121].

8. In view of the above, loss of future earnings is calculated at (2322 X 12 X 11) ₹3,06,504/-, rounded off to ₹3,06,600/-.

9. Thus, the compensation awarded to the appellant is enhanced by ₹3,06,600/- (Rupees Three Lakh Six Thousand and Six Hundred only). The said amount shall carry interest as levied by the Tribunal in the impugned judgment. The entire enhanced compensation shall be deposited by the Insurance Company with upto date interest with the Tribunal within 30 days whereupon the said amount shall be kept in a fixed deposit receipt in the name of claimant in any nationalised bank for a period of 5 years with liberty to draw monthly interest.

10. The appeal is disposed of in above terms.

11. Trial Court's record be returned.

R.K. GAUBA
(JUDGE)

FEBRUARY 12, 2016
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