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

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**Date of Decision: 01<sup>st</sup> December, 2016**

+ **MAC.APP. 445/2013**

G P SHARMA

..... Petitioner

Through: Ms. Aekta Vats, Mr. Karan Mehta,  
Adv.

Versus

M/S JAIPUR GEMS PALACE & ANR

..... Respondent

Through: Mr. M.Fazal, proxy counsel for R-  
1 and R-2.

Mr. Pavan Kumar, Adv. for Mr.  
A.K. Soni, Adv. as amicus curiae.

**CORAM:**

**HON'BLE MR. JUSTICE J.R. MIDHA**

**JUDGMENT (ORAL)**

1. The appellant has challenged the order dated 7<sup>th</sup> March, 2012 whereby compensation of Rs.85,446/- has been awarded to the appellant. The appellant seeks enhancement of the award amount.
2. On 26<sup>th</sup> July, 2000 at about 12.10 pm, the appellant, who was a practicing lawyer by profession, was going in Maruti gypsy bearing registration No. DNU 11 towards Sunder Nagar along with his housekeeper. The left tyre of the gypsy got punctured at the flyover of the Oberoi Hotel whereupon the appellant and his housekeeper got down for replacing the tyre when they were hit by a Maruti Zen bearing registration No.DL 4C D-1663 which resulted in grievous

injuries to the appellant and his associate and both were removed to Shahi Hospital by the PCR. The appellant was admitted in Shahi Hospital and was kept in an ICU till 27<sup>th</sup> July, 2000. The appellant was shifted to Apollo Hospital on 27<sup>th</sup> July, 2000, where a bilateral chest tube was inserted and he was kept on a ventilator from 30<sup>th</sup> July, 2000 to 31<sup>st</sup> July, 2000 and was discharged on 11<sup>th</sup> August, 2000. Few weeks thereafter, the appellant developed blood collection in the brain and was again admitted to Apollo Hospital on 26<sup>th</sup> October, 2000 where underwent surgical evacuation of blood collection on 27<sup>th</sup> October, 2000. He was discharged on 1<sup>st</sup> November, 2000. He claims to have taken treatment at USA for the head injuries suffered. The appellant claimed compensation of Rs.2,75,00,000/- before the Claims Tribunal.

3. The Claims Tribunal awarded Rs.25,000/- towards pain and suffering, Rs.28,892/- towards treatment, Rs.14,000/- towards diet and conveyance, Rs.4,838/- towards attendant charges and Rs.12,716/- towards loss of income. The total compensation awarded is Rs.85,446/-.

4. Learned counsel for the appellant urged at the time of the hearing that the appellant has filed original bills totalling Rs.6,49,650/- which have not been considered by the Claims Tribunal on the ground that the original bills have not been filed. The Trial Court record has been perused and the original bills are on record but the same have not been exhibited. It is further submitted that the Claims Tribunal has not awarded any compensation for loss of amenities of life, mental and physical shock, loss of earning,

inconvenience, hardship, disappointment, frustration, mental stress, dejection and unhappiness in future life. It is further submitted that the Claims Tribunal has not adjudicated the loss of earning capacity of the appellant. It is further submitted that the appellant is bedridden and the no expenses have been awarded for the future treatment. Learned counsel for the appellant seeks remand of the matter back to the Claims Tribunal with permission to lead the additional evidence.

5. This Court is satisfied that the additional evidence is necessary to adjudicate the just and fair compensation. In exercise of power under Order 41 Rule 27(1)(b), this Court allows the appellant to lead additional evidence in the matter. There is merit in other contentions of the appellant which have not been considered by the Claims Tribunal and therefore, it would be appropriate to remand the matter back to the Claims Tribunal.

6. In view of the above, the impugned award is set aside and the matter is remanded back to the Claims Tribunal. The Claims Tribunal shall record the additional evidence to be led by the appellant. The Claims Tribunal shall thereafter afford an opportunity to the respondents to lead the evidence in rebuttal. The Claims Tribunal shall thereafter pass a fresh award after hearing both the parties. The appeal is disposed of in the above terms.

7. The parties shall appear before the Claims Tribunal on 15<sup>th</sup> December, 2016 at 2.30 pm when the Claims Tribunal shall fix a date for recording of the additional evidence. The appellant shall file the list of witnesses along with the application for summoning the witnesses and the relevant documents before the Claims Tribunal.

8. The record of the Claims Tribunal be sent back forthwith.
9. Copy of this judgment be given *dasti* to counsel for the parties.

**DECEMBER 01, 2016**  
**dk**

**J.R. MIDHA, J.**

