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

Date of Decision: 08th March, 2016

+ **MAC.APP. 408/2007**

RAM MILAN YADAV Appellant

Through: Mr. S. N. Parashar, Adv.

versus

SURENDER SINGH & ANR. Respondents

Through: Mr. Pankaj Seth, Adv. for R-2.

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The appellant suffered injuries in a motor vehicular accident that occurred at 09:10 AM on 11.11.2005 near red light close to Khalsa college, ring road, Delhi when the bicycle on which he was riding was hit by bus bearing registration no.DL-1PB-4821, admittedly insured against third party risk with the second respondent (the insurer) for the period in question.

2. On his claim petition under Sections 166 & 140 of the Motor Vehicles Act, 1988 (the MV Act), registered as suit no.85/2006, the motor accident claims tribunal (the tribunal) by judgment dated 26.03.2007 awarded compensation in the total sum of ₹7,82,842/- with interest from the date of filing of the petition till realization.

3. The claimant has come up in this appeal seeking enhancement of the compensation, his grievances being that the award of compensation under the non-pecuniary heads of pain and sufferings, loss of amenities and attendant charges is on the lower side and no provision has been made for future medical expenses.

4. Having heard both sides and having gone through the tribunal's record, it is found that the claimant had suffered fracture of disc which resulted in paraplegia rendering the appellant permanently disabled to the extent of 75%. At the time of the accident, he was earning his livelihood from private employment. Having regard to the nature of injuries suffered and their effect, the tribunal assessed the loss of functional disability to be 100%. This finding has attained finality as it was not challenged by the party respondents in the claim petition.

5. The tribunal awarded ₹75,000/- on account of pain & suffering and ₹65,000/- towards loss of amenities. It added ₹11,000/- towards the attendant charges for the period of treatment but did not make any provision for future medical expenses.

6. The case reported as *Sanjay Kumar vs. Ashok Kumar & Ors.*, (2014) 5 SCC 330, is a case comparable to the one at hand. The claimant in that case had suffered amputation of the right leg above the knee rendering him disabled to the extent of 75%. The Supreme Court awarded ₹1,50,000/- towards pain & suffering and ₹1,00,000/- towards loss of amenities of life. Similar awards are made in the case at hand in lieu of the amounts of

₹75,000/- and ₹65,000/- as assessed by the tribunal in the impugned judgment.

7. Having regard to the nature of injuries and the effect suffered, the claimant will need support of attendant and medical aid in future as well. But, he has not come with any concrete evidence in support of claim on such accounts. Thus, award will have to be made on the basis of some assumptions. Following the view taken in *Jakir Hussein vs. Sabir & Ors.*, (2015) 7 SCC 252, ₹40,000/- each is awarded towards the attendant charges and future medical expenses, in lieu of ₹11,000/-.

8. As a result of above, the compensation awardable to the claimant would get enhanced by (1,10,000+69,000) ₹1,79,000/-.

9. The award is enhanced accordingly. Needless to add, it shall carry interest as levied by the tribunal.

10. The insurance company is directed to deposit the enhanced portion of the compensation with corresponding interest with the tribunal within 30 days, whereupon it shall be released to the claimant by depositing it in fixed deposit account in his name in a nationalized bank for a period of ten years with liberty to draw monthly interest.

11. The appeal is disposed of in above terms.

R.K. GAUBA
(JUDGE)

MARCH 08, 2016/ssc