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

Date of Decision: 03rd May, 2016

\+ **MAC.APP. 461/2007**

PARMINDER SINGH BEDI ..... Appellant

Through Mr. M M Singh, Adv.

versus

VIJAY KUMAR ARORA ..... Respondent

Through None

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The appellant suffered injuries in motor vehicular accident that occurred on 11.07.2003, statedly on account of negligent driving of motor vehicle described as truck bearing registration No.HR 38 C 3981 (offending vehicle), insured against third party risk with the third respondent (insurer), it having been driven at the given point of time by the first respondent (driver) and being owned by the second respondent (owner). As a result of the injuries suffered, the appellant (claimant) was rendered permanently disabled, it having been certified (Ex.PW8/A) to be physical disability to the extent of 55.65% and hearing disability to the extent of 68%, the composite joint disability being to the extent of 86%.

2. The appellant (claimant) filed an accident claim case (suit No.193/03) on 05.11.2003 seeking compensation impleading the three respondents as parties. The tribunal held inquiry and on that basis held that the accident had occurred and injuries had been suffered due to negligent driving of the offending vehicle. By judgment dated 19.04.2007, compensation in the sum

of ₹13,76,000/- was awarded in his favour and the insurance company was directed to satisfy the said award with interest. The amount awarded an compensation includes loss of future earning capacity worked out to the extent of ₹5,46,000/- calculated on the multiplier of 13, treating the functional disability to the extent of 50%, against annual income of ₹84,000/- proved on the basis of income tax return (ITR) for assessment year 2004-05. The appeal has been filed seeking enhancement.

3. The only ground pressed in the appeal is to the effect that the loss on account of future earning due to disability was wrongly calculated on the multiplier of 13. It is pointed out that the claimant was 34 years old on the date of accident and multiplier of 16 would apply. Reliance is placed on *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.,* (2009) 6 SCC 121.

4. The contention of the appellant must be accepted. At the age of 34, the future earning capacity has to be worked out (in view of the future disability) on the multiplier of 16. Since the annual loss of earning capacity was calculated at ₹42,000/-, the compensation awarded needs to be enhanced by (42,000 x 3) ₹1,26,000/-. Ordered accordingly. Needless to add, it shall carry interest (6%) as levied by the tribunal.

5. The insurer is directed to deposit the enhanced compensation with proportionate interest with the tribunal within 30 days making it available to be released to the appellant – claimant.

6. The appeal is disposed of in above terms.

R.K. GAUBA
(JUDGE)

MAY 03, 2016/VLD