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

Date of Decision: 20.05.2016

\+ MAC.APP. 632/2007 and CM No.14323/2007

DESH RAJ SINGH GAUTAM ..... Appellant

Through: Mr. A. Kumar and Mr. M.K. Sinha, Advocates

versus

SUNIL KUMAR AND ORS. ..... Respondents

Through: Mr. A.K. De and Mr. Rajesh Dwivedi, Advocates for R-3

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The appellant, then aged 43 years, employed with Mahanagar Telephone Nigam Ltd. (MTNL) at a salary of ₹19,000/-, suffered injuries in a motor vehicular accident that occurred on 03.03.2003 involving negligent driving of a bus bearing registration no.DL-1PA-0863 (offending vehicle) admittedly insured against third party risk with the third respondent (insurer) for the period in question. He instituted an accident claim case (suit no.470/03) impleading the insurer, driver and owner of the offending vehicle as respondents.

2. The tribunal after inquiry, by judgment dated 15.04.2004, upheld his case about the injuries having been suffered and he having been rendered functionally disabled to the extent of 25% in the consequence and awarded compensation in the sum of ₹3,25,000/- with interest. The finding on the issue of negligence has attained finality as it was never questioned thereafter.

3. The appeal was filed seeking enhancement of compensation, *inter alia*, raising grievances about certain further medical expenditure required to be incurred and some of the proof about medical expenses not having been considered by the tribunal. In this regard, the appellant also led some further evidence by examining himself on 04.05.2010. At the hearing, however, it is submitted on behalf of the appellant that he does not press for any further enhancement except on the issue of loss of future income due to disability.

4. It is noted that the tribunal awarded lumpsum amount of ₹2 Lakh on account of loss of future income due to disability. This was not a correct approach. Admittedly, the claimant was a regular employee of MTNL. It is conceded by the counsel representing him that he would continue in service till he attains the age of 60 years and, thus, there would be no loss of income till that stage. However, the loss of income post-retirement will have to be appropriately computed. Since the retirement would occur at the age of 60 years, it had to be calculated with the multiplier of 9. Computed thus, the loss of future earnings on account of disability to the extent of 25% would come to (₹19,000 x 25/100 x 12 x 9) ₹5,13,000/-. Since the tribunal had awarded only lupmsum of ₹2 Lakh, the award deserves to be enhanced by

₹3,13,000/-. Ordered accordingly. Needless to say, it shall carry interest as levied by the tribunal.

5. The insurer is directed to deposit the enhanced portion of the award with corresponding interest with the tribunal within 30 days so that it can be released to the claimant.

6. The appeal and the pending application are disposed of in above terms.

R.K. GAUBA
(JUDGE)

MAY 20, 2016
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