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

Date of Decision: 19.05.2016

+ **MAC.APP. 977/2013**

RAJ PAL SINGH

..... Appellant

Through: Mr. Rahul Mohod, Advocate

versus

MEHENDRI & ORS.

..... Respondents

Through: Mr. P. Acharya, Adv. for R-3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The appellant, employed as a Garden Choudhary (supervisor over gardeners) in the Department of Horticulture of the Govt. of India suffered injuries in a motor vehicular accident that occurred on 07.11.2006 involving negligent driving of a motor vehicle described as a rural transport vehicle (RTV) bearing registration no.DL-1VA-0520. He filed an accident claim case (petition no.649/09/07) on 05.03.2007 seeking compensation under Sections 166 and 140 of the Motor Vehicles Act, 1988 (M.V. Act). In the said proceedings, the owner, driver and insurer respectively of the offending

vehicle were impleaded as parties, they now being first, second and third respondents in appeal.

2. The tribunal held inquiry and, by judgment dated 17.07.2013, upheld the case of the claimant about injuries having been suffered due to negligent driving of the RTV. The said finding has attained finality as it was not challenged further.

3. The tribunal awarded compensation in the total sum of ₹3,89,531/- with interest in favour of the claimant, the said amount being inclusive of ₹1,56,912/- calculated as loss of future income on account of disability assessed to the extent of 50%.

4. The appellant by this appeal presses for enhancement of the compensation on account of loss of future income arguing that the same was wrongly calculated on the basis of minimum wages of a skilled worker ignoring the fact that he had proved by evidence that he was earning ₹9618/- p.m. as salary and allowances from the Government. His submission in this regard is correct as it was the said salary which was the basis of calculation of the loss of income during treatment (para 10 of the impugned judgment). In these circumstances, the loss of future income is recalculated as (₹9,618/- x 50/100 x 12 x 7) ₹4,03,956/-.

5. Thus, the award is enhanced by (₹4,03,956/- (-) ₹1,56,912/-) ₹2,47,044/-, rounded off to ₹2,48,000/-. Needless to say, it shall carry interest as levied by the tribunal.

6. The insurer shall be obliged to deposit the balance of its liability under the modified award with the tribunal within 30 days of this judgment whereupon it shall be released to the claimant.

7. The appeal is disposed of in above terms.

(R.K. GAUBA)
JUDGE

MAY 19, 2016
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