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

% **Date of Decision: 30th August, 2016**

\+ MAC.APP. 498/2016

IFFCO TOKIO GENERAL INSURANCE CO LTD ..... Appellant
Through: Mr. A.K. Soni, Advocate

versus

RAMESH & ORS ..... Respondents
Through: Ms. Rajkumari, Advocate

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the award dated 26th April, 2016 whereby compensation of Rs.7,36,000/- has been awarded to respondent No.1.

2. The accident dated 28th March, 2012 resulted in grievous injuries to respondent No.1. The respondent No.1 suffered head injuries and fracture on right leg ankle for which he was admitted to Safdarjung Hospital till 30th March, 2012. Respondent No.1 remained under treatment for about six months and suffered 40% disability in relation to right lower limb. The Claims Tribunal awarded Rs.39,552/- towards medical expenses, Rs.20,000/- towards special diet, Rs.10,000/- towards conveyance, Rs.25,000/- towards attendant charges. The Claims Tribunal awarded Rs.1,00,000/- towards pain and sufferings and Rs.1,00,000/- towards loss of amenities. The Claims Tribunal further awarded Rs.44,148/- towards loss of income for six months and Rs.3,97,332/- towards future loss of income.

3. Learned counsel for the appellant urged that at the time of hearing the Claims Tribunal has taken minimum wages relating to a non-matriculate whereas the minimum wages of a skilled worker ought to have been taken. Respondent No.1 was 8th pass and was running a shop of domestic items and, therefore, the Claims Tribunal has rightly taken a minimum wages in respect of a non-matriculate person.

4. Learned counsel for the appellant submits that the Claims Tribunal has taken the functional disability as 30% which is on a higher side. Respondent No.1 has suffered 40% disability with respect to right lower limb. Respondent No.1 is present in Court and considering his condition, the functional disability of 30% taken by the Claims Tribunal is upheld.

5. Learned counsel for the appellant submits that respondent No.1 is not entitled to interest for the period 19th December, 2013 to 14th August, 2015 when the proceedings remained adjourned *sine die* on account of the inability of respondent No.1 to obtain the disability certificate. Learned counsel for respondent No.1 has no objection to the interest not being awarded for the aforesaid period.

6. The appeal is partially allowed. The compensation of Rs.7,36,000/- awarded by the Claims Tribunal is upheld along with interest from the date of filing of the claim petition i.e. 09th May, 2012 upto realisation with interest @ 9% per annum except for the period 19th December, 2013 to 14th August, 2015.

7. The appellant has deposited award amount with UCO Bank, Delhi High Court Branch in terms of the order dated 11th July, 2016.

8. As per the calculation done by Accounts Officer, respondent No.1 is entitled to award amount of Rs.7,36,000/- along with interest of Rs.1,69,592/- for the period mentioned above. Respondent No.1 is, thus, entitled to total amount of Rs.9,05,542/- (Rs.7,36,000/- + Rs.1,69,542/-).

9. UCO Bank, Delhi High Court Branch is directed to refund a sum of Rs.1,09,755/- to the appellant. With respect to the balance amount of Rs.9,05,542/-, UCO Bank is directed to keep Rs.8,00,000/- in fixed deposit in the following manner: -

Sl. No.	**Duration of FDR**	**Respondent No.1** **FDR amount (Rs.)**
1.	1 year	**1,00,000/-**
2.	2 years	**1,00,000/-**
3.	3 years	**1,00,000/-**
4.	4 years	**1,00,000/-**
5.	5 years	**1,00,000/-**
6.	6 years	**1,00,000/-**
7.	7 years	**1,00,000/-**
8.	8 years	**1,00,000/-**
	TOTAL	**8,00,000/-**

10. The balance amount after issuing FDRs for Rs.8,00,000/- be released to the respondent No.1 by transferring the same to his individual savings bank account.

11. Monthly interest on the FDRs of the respondent No.1 shall be credited to his individual savings bank account.

12. At the time of maturity, the fixed deposit amount shall be automatically credited in the savings bank account of the beneficiary.

13. All the original FDRs shall be retained by UCO Bank, Delhi High Court Branch. However, the photocopies of the same shall be provided to the respondent No.1.

14. No cheque book or debit card be issued to the claimant/respondent No.1 without permission of this Court.

15. No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.

16. The claimant/respondent No.1 shall approach the UCO Bank for completing the formalities for the disbursement of the award amount in terms of this judgement.

17. UCO Bank, Delhi High Court Branch shall ensure that the savings account of respondent No.1 is individual account and not joint account.

18. The claimant/respondent No.1 at liberty to approach this Court for release of further amount in case of any financial exigency.

19. C.M. Appl. 24066/2016 is disposed of.

20. Copy of this judgement be given *dasti* to learned counsel for the parties under signature of Court Master.

J.R. MIDHA, J.

AUGUST 30, 2016
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