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

Date of Decision: 27.05.2016

\+ MAC.APP. 724/2007

BALDEV SINGH SOLANKI ..... Appellants

Through: None.

Versus

SIBU KRISHNAN & ORS. ..... Respondents

Through: None.

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. On 27.09.2011, the appellant (claimant) was moving on two wheeler scooter bearing registration No. DL 8SK 5048 (the scooter) on way to Sonepat (Haryana) when, in the area of Safiabad Road, Narela, a police control room (PCR) van bearing registration No. DL 1A 0866 (the offending vehicle) statedly came in a negligent manner driven by the first respondent (driver) and caused an accident resulting in he (along with his daughter who was also travelling on the pillion) sustaining injuries. An accident claim case (Suit No. 158/2003) was instituted by him on 23.08.2012 impleading the driver and Commissioner of Police, Delhi Police (the second respondent)

as parties seeking compensation under Sections 166 and 140 of Motor Vehicles Act, 1988 (MV Act).

2. The tribunal held inquiry, and by judgment dated 16.12.2006, returned a finding that the accident had occurred resulting in injuries being sustained by the appellant on account of negligent driving of the PCR Van. This finding has attained finality as it was not challenged further. The tribunal granted compensation in the sum of Rs. 1,20,000/- holding both the respondents jointly and severally liable to pay. The said amount of compensation was calculated thus:-

		(Rupees)
(i)	*Medical Expenses*	*15,000/-*
(ii)	*Pain and suffering*	*20, 000/-*
(iii)	*Loss of Enjoyment and Amenities of Life*	*20,000/-*
(iv)	*Loss of Income*	*20,000/-*
(v)	*Loss of Future Income*	*40,000/-*
(vi)	*Conveyance/Special Diet*	*5,000/-*
	TOTAL COMPENSATION	***1,20,000/-***

3. The claimant, having felt aggrieved came up with the appeal at hand submitting that the compensation granted by the tribunal is inadequate presumably because his income has not been properly assessed. The appeal was filed in December, 2007 and was admitted, directed to be shown in the regular list to come up on its own turn by order dated 14th May, 2009.

4. On his request, the appellant was later allowed opportunity to submit his additional affidavit in evidence. He placed on record income certificate bearing No. Income/6/63/30139/5/6/2009/953014159-28809 dated 12th June, 2009 issued by Deputy Commissioner (North-West District) indicating his income having been assessed at Rs. 15,000/- per month. While taking the

said document on record, the Court, by proceedings recorded on 8th September, 2009, asked the Deputy Commissioner (North-West District) to place before the court relevant rules or provisions of rules whereunder inquiry into the income had been conducted and the certificate issued. By the said order, Mr. A.K. Soni, Advocate was appointed as *Amicus Curiae* to contact the Deputy Commissioner (North-West District) and collect the necessary information/documents. The *Amicus Curaie* submitted report dated 16th December, 2009, the sum and substance of which was that the inquiry on the request of the claimant had been conducted leading to the issuance of the certificate by an executive magistrate on the basis of oral statements of two individuals based on their personal knowledge.

5. In the wake of the above said report, the claimant/appellant submitted before the Court on 06.04.2010 that the Sub-Divisional Magistrate (SDM) be directed to hold an inquiry and assess his income. This request was declined by the Court by order dated 06.04.2010.

6. After the above mentioned proceedings had been conducted, the appellant has not been appearing as and when the appeal is taken up. Given the fact that this is the oldest appeal on board of this Court, there is no reason why it should be deferred yet again.

7. The appellant had vaguely claimed before the tribunal that he was earning Rs.15,000/- to Rs. 20,000/- per month from his practice as an advocate. This claim was disbelieved by the tribunal in the judgment dated 16.12.2006 and for sound reasons. If such were the level of earnings of the claimant from his law practice, it being of an extent where he would be required to be assessed to income tax, the proper proof of income would have been available. The fact that no such proof was adduced, the claim

about the income being in the region of Rs. 15,000 to Rs. 20,000/- cannot be believed.

8. In above facts and circumstances, the appeal is found to be unmerited and, therefore, dismissed.

(R.K. GAUBA)
JUDGE

MAY 27, 2016
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