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

% **Date of Decision: 15th September, 2016**

\+ MAC.APP. 1102/2013

RELIANCE GENERAL INSURANCE CO LTD ..... Appellant
Through: Mr. Shoumik Mazumdar, Adv.

versus

RAJESH KUMAR & ORS ..... Respondents
Through: Mr. Rajeshwar Kumar Gupta, Adv. for respondent no.1 along with respondent no.1 in person.

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

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.33,89,525/- has been awarded to respondent no.1.

2. The accident dated 1st May, 2010 resulted in the amputation of right leg above knee (mid thigh) and left hand index finger. The permanent disability of the appellant has been assessed as 90% in respect of the right lower limb and left upper limb.

3. Respondent no.1 was carrying on business relating to jeans/pants at the time of the accident earning Rs.2,08,500/- per annum as per the Income Tax returns. The Claims Tribunal took functional disability as 70 % in respect of whole body and applied the multiplier of 15 to compute the loss of future income as Rs.21,89,250/-. The Claims Tribunal further awarded future prospects @ 30%. The total loss of future income has been computed as Rs.28,86,025/-. The loss of income for one year after the accident has

been computed as Rs.2,08,500/-. The Claims Tribunal further awarded Rs.20,000/- towards attendant, Rs.20,000/- towards special diet, Rs.20,000/- towards conveyance and Rs.1,00,000/- towards artificial limb. The Claims Tribunal awarded Rs.1,00,000/- towards pain and suffering, Rs.25,000/- towards amenities of life, Rs.25,000/- towards shortening of life span, Rs.25,000/- towards disfiguration, Rs.37,352/- towards medical bills. The total compensation of Rs.33,89,525/- has been awarded by the Claims Tribunal.

4. Learned counsel for the appellant urged at the time of the hearing of the appeal that functional disability of 70% with respect of whole body was taken by the Claims Tribunal and 30% increase on account of future prospects are on a higher side. It is further submitted that the income of respondent no.1 should be taken according to the Income Tax returns of the previous years. It is further submitted that the loss of income for the one year is also on a higher side. Learned counsel further submits that the interest on the future income should not be awarded. Learned counsel further submits that the penal interest of 12% should be set aside since the appellant had filed appeal before this Court.

5. Respondent no.1 is present in Court and his condition has been seen. This Court is of the view that the compensation awarded to respondent no.1 is just, fair and reasonable. There is no infirmity in the computation of the income of respondent no.1 according to the latest Income Tax return. The future prospects of 30% taken by the Claims Tribunal is also fair and reasonable. The interest on the future income does not warrant interference as the Claims Tribunal has awarded lower interest rate of 7.5% instead of 9% being consistently awarded by this Court. However, the penal interest of 12% imposed by the Claims Tribunal has to be set aside since the appellant had filed the appeal before this Court.

6. The compensation of Rs.33,89,525/- awarded by the Claims Tribunal along with interest @ 7.5% per annum is upheld. However, the appeal is partially allowed to the extent that the penal interest of 12% awarded by the Claims Tribunal is set aside.

7. The appellant has deposited the entire award amount with this Court in terms of order dated 2nd December, 2013 out of which 60% amount has been disbursed to respondent no.1 and the balance 40% amount is lying with this Court.

8. The Registrar General is directed to instruct UCO Bank, Delhi High Court Branch to discharge the FDR and disburse the balance award amount to respondent No.1 in the following proportion:-

(i) UCO Bank shall release 10% of the amount to respondent No.1 by transferring the said amount to his savings bank account.

(ii) The balance 90% amount be kept in nine fixed deposits of equal amount for a period of 1 year, 2 years, years, 3 years, 4 years, 5 years, 6 years, 7 years, 8 years and 9 years.

9. Monthly interest on the FDRs of respondents No.1 shall be credited in the individual savings bank account of respondent No.1.

10. At the time of maturity, the fixed deposit amount shall be automatically credited in the individual savings bank account of respondent no.1.

11. 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 claimant/respondent no.1.

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

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

14. UCO Bank, Delhi High Court Branch shall ensure that the savings bank account of respondent no.1 is an individual account and not joint account.

15. Respondent no.1 are at liberty to approach this Court for release of further amount in case of any financial exigency.

16. The statutory amount be refunded back to the appellant.

17. Copy of this judgment be given *dasti* to counsels for the parties under signatures of the Court Master.

J.R. MIDHA, J.

SEPTEMBER 15, 2016
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