

\$~R-293

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

Decided on: 9th October, 2017

+ **MAC APPEAL 82/2011**

JAGBEER SINGH

..... Appellant

Through: Mr. Adarsh Nain Sabharwal,
Adv.

versus

SHIV KUMAR & ANR.

..... Respondents

Through: Ms. Vandana Surana, Adv. for
R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant, then 29 years old, earning his livelihood as a driver, suffered injuries in a motor vehicle accident that occurred on 26.06.2001 due to negligent driving of truck bearing registration No.HR 38 D 6467 admittedly insured against the third party risk with the third respondent (insurer). On his claim petition (Suit No.436/2002), instituted on 14.08.2002, the Motor Accident Claims Tribunal upheld his case for compensation, by judgment dated 09.09.2010, and awarded Rs.2,31,783/- as compensation fastening the liability to pay on third respondent with interest @ 7.5% per annum calculating it thus:

Treatment expenses	:	Rs.13,000/-
Pain and sufferings:	:	Rs.25,000/-
Conveyance and special diet	:	Rs.10,000/-
Compensation on account of disability:		Rs.1,83,783/-
Total	:	Rs. 2,31,783/-

2. By the appeal at hand the claimant seeks enhancement of the compensation. The record of the Tribunal shows that evidence had been adduced to affirm that the appellant had suffered polytrauma with fracture femur left with fracture of both bones left leg (compound grade-I) besides fracture of lateral malleolus. He remained comatose and under treatment in intensive care unit for a prolonged period, his treatment eventually resulting in he recuperating but rendered permanently disabled mainly on account of restricted movement of the left knee and left ankle it having been evaluated to be a permanent disability (Ex.PW-1/10), the physical impairment being to the extent of 30%. The Tribunal accepted the said evidence and found that the claimant has been rendered permanently disabled to the extent of 30% affecting his earning capacity and awarded compensation on such account taking the assistance of minimum wages prevalent at the relevant point of time.

3. The grievances raised in the appeal are that there is no award made for loss of income during the period of treatment and towards loss of amenities of life due to disability and further that the award under the head of pain and sufferings and the rate of interest levied are inadequate.

4. The evidence led before the Tribunal shows the treatment had continued for more than one year. The learned counsel for the claimant fairly conceded that the award towards loss of income may be restricted to the period of treatment. In this view an amount of Rs.36,036/- deserve to be added to the award granted by the Tribunal. Given the nature of handicap suffered, damages under the head of loss of amenities of life deserve to be granted along with the award under the head of pain and sufferings in the sum of Rs. 50,000/- each. This would mean there shall be a further net increase in the award by Rs.75,000/-. Total award thus, needs to be enhanced by (36,036+75,000/-) Rs.1,11,036/-. It is increased to (2,31,783+1,11,036/-) 3,42,819/- rounded off to Rs.3,43,000/- (Three Lakhs Forty Three Thousand Only).

5. Following the consistent view taken by this Court, the rate of interest is increased to 9% (nine percent) per annum from the date of filing of the petition till realization. [see judgment dated 22.02.2016 in MAC.APP. 165/2011 *Oriental Insurance Co Ltd v. Sangeeta Devi & Ors.*]

6. The insurance company is directed to satisfy the enhanced award by requisite deposit with the Tribunal within 30 days.

7. The appeal is disposed of with the above terms.

8. *Dasti.*

R.K.GAUBA, J.

OCTOBER 09, 2017

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