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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 9th August, 2017

+ MAC.APP. 60/2017 and CM APPL.1895/2017 (stay)

RELIANCE GENERAL INSURANCE CO LTD

..... Appellant

Through: Mr. A.K. Soni, Advocate

versus

RAJ KUMAR SHARMA & ORS

..... Respondents

Through: Mr. Sudhir Kumar Singh,
Advocate for R-1 along with
R-1 in person.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The first respondent suffered injuries in a motor vehicular accident statedly due to negligent driving of motor vehicle described as Tata Ace bearing registration No.DL-1LK-4836, admittedly insured against third party risk for the period in question with the appellant insurance company on 27.07.2009. He filed accident claim case (Suit No.5435/2016) on 31.07.2009 seeking compensation impleading the driver and owner of the said vehicle in addition to the insurer (the appellant).

2. The Motor Accident Claims Tribunal (the tribunal) held inquiry and on the basis of evidence led, by judgment dated 25.11.2016, upheld the claim for compensation on the principle of fault liability,

awarding compensation in the sum of Rs.2,32,000/- directing the appellant insurer to pay with interest @ nine per cent (9%) per annum. The award has been computed thus:-

Sl.No.	Head	Amount in (Rs.)
1.	Medical expenses	16,285/-
2.	Special diet	20,000/-
3.	Conveyance	5,000/-
4.	Loss of earning during treatment	20,000/-
5.	Pain and suffering	75,000/-
6.	Loss of enjoyment of life	75,000/-
7.	Costs of proceedings	20,000/-
	Total	2,31,285/- Rounded up as Rs.2,32,000/-

3. The insurer is in appeal questioning the computation stating that the award is unduly excessive and unfounded.

4. Having heard both sides, this court finds merit in the submissions of the insurer. The clamant was 53 years old at the time of the accident. He claimed to be earning his livelihood from real estate business. He pleaded that he was earning Rs.20,000/- per month. The tribunal blindly accepted this claim as also the plea that on account of injury he was unable to work for a period of one month. The MLC and the other material on record indicates only superficial hurt, the impact undoubtedly being in chest but there being not much of damage to the insides. The claimant had pleaded that he had spent

Rs.80,000/- on medical treatment, special diet, conveyance but he was able to muster proof of expenditure only to the tune of Rs.16,285/-. Apparently, he has tried to exaggerate the injuries suffered and their effect. There is no grievous hurt sustained, leave alone it being a case of temporary disability. In these circumstances, the award made by the tribunal under various heads, except on account of actual medical expenditure, cannot be sustained. The impugned award to such extent needs to be modified.

5. On being asked, the counsel for the claimant pointed out that income tax return had been submitted (Ex.PW-1/3). The said document indicates the total income declared for assessment year 2009-2010 was Rs.1,64,040/-. Even if one month's rest on account of medical advice were to be assumed to be correct, the loss of earnings due to injuries suffered would be (1,64,040/-/12) Rs.13,670/- rounded off to Rs.15,000/-. Thus, the amount of Rs.15,000/- is awarded towards loss of income during treatment.

6. Having regard to the facts and circumstances mentioned above, the award of Rs.6,000/- each under the heads of special diet and conveyance and Rs.30,000/- under the head of pain and suffering are added, the sum awarded as just compensation in the present case being (16,285/- + 15,000/- + 6,000/- + 6,000/- + 30,000/-) Rs.73,285/- rounded off to Rs.75,000/-.

7. The award is modified accordingly.

8. The amount of Rs.75,000/- will be paid as compensation to the first respondent with interest @ nine per cent (9%) per annum from the date of filing of the petition till realization.

9. In terms of order dated 17.01.2017, the appellant has deposited the entire awarded amount with interest with the tribunal. The tribunal shall re-calculate the award as per modification above, releasing the same in favour of the first respondent (the claimant), refunding the excess to the appellant insurance company with statutory amount.

10. The appeal as well as pending application are disposed of in above terms.

AUGUST 09, 2017
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R.K.GAUBA, J.