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

Decided on: 25th August, 2017

+ **MAC.APP. 761/2017 and CM APPL.30537-30540/2017**

UTTARAKHAND TRANSPORT CORPORATION

.... Appellant

Through: Mr. Harish C. Pant, Advocate

versus

SUKHVEER SINGH & ANR

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. On 24.07.2012 the first respondent was travelling in bus bearing registration No.UK-7PA-1413 owned by the appellant when it came to be involved in a collision at about 3:30 a.m. against a truck bearing registration No.UP-12T-2950, stationary on the roadside, this resulting in injuries being suffered by him. He instituted accident claim case (MAC No.315/2016) on 23.03.2013 impleading the appellant and its driver (second respondent) as party respondents.

2. The Motor Accident Claims Tribunal (the tribunal), after inquiry, by judgment dated 02.08.2016 returned finding that the accident had indeed occurred due to negligent driving of the bus. It computed compensation in the sum of Rs.4,78,000/- (Rupees Four Lakhs Seventy Eight Thousand Only) and held the appellant along

with the driver (second respondent) jointly and severally liable to pay the same, with interest, to the first respondent (claimant).

3. The appeal filed is pressed to challenge the computation of compensation towards loss of wages (Rs.81,012/-) and towards loss of amenities (Rs.40,000/-) as included in the award.

4. It is noted that the claimant had suffered fracture of left shoulder bones, head injuries, besides muscle injuries involving loss of skin and muscle, such injuries requiring, amongst others, flap reconstruction. The claimant had proved that in the medical opinion (Ex.PW-1/5) he has been rendered permanently disabled in relation to the left upper limb, the extent of permanent disability thereby assessed being twenty per cent (20%).

5. It is pointed out that the Tribunal noted that no evidence was adduced by the claimant to prove the exact period when he remained bedridden. The Tribunal assumed the period of inability to resume work for gain to be to the extent of six months and, on that basis, calculated the loss of wages, the monthly income having been assessed as Rs.13,502/-. It is also noted that the Tribunal observed (in para 20) of the impugned judgment that no proof of factors such as age, marital status or unusual deprivation had been brought on record. It is the grievance of the appellant that in spite of such observations, the tribunal went ahead to grant Rs.40,000/- towards loss of amenities and enjoyment of life.

6. In the considered view of this court, having regard to the nature of injuries suffered, as noted above, the period for which the claimant would have been constrained to be away from gainful engagement for work has been fairly assessed by the tribunal. Fracture of the left shoulder bones also involving muscle and skin loss requiring reconstructive surgical procedure to be undergone would not restore the health of the victim immediately. It is a gradual process which would have kept him immobile, unable to return to work for quite some time. Though, there is no material submitted for any objective assessment in this regard to be made, the subjective view taken by the tribunal does not call for any interference.

7. The observations about absence of proof of age, marital status, etc. in the context of damages for loss of amenities of life were not wholly correct. There was proof adduced of the age of the claimant. The loss of amenities of life as has been covered by the award has a connection with the nature injuries suffered and their aftermath for the victim. The amount awarded towards loss of amenities and enjoyment of life, in the given facts and circumstances, cannot be by any stretch of reasoning, said to be excessive.

8. The appeal is devoid of substance. It is dismissed *in limine* with accompanying applications.

9. The statutory deposit shall be refunded, after proof is adduced of the award having been satisfied.

R.K.GAUBA, J.

AUGUST 25, 2017/vk