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

Decided on: 20th July, 2017

+ MAC.APP. 103/2017

RELIANCE GENERAL INSURANCE CO LTD..... Appellant

Through: Mr. A.K.Soni, Advocate

versus

DHIRENDRA GAUTAM & ORS Respondents

Through: Mr. Amit Kumar Pandey,
Advocate for R-1 with R-1 in
person.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The first respondent had suffered injuries in a motor vehicular accident that occurred on 24.05.2013 involving vehicle bearing registration no.DL-3CBX-0700, concededly insured against third party risk with the appellant insurance company. On his claim petition (MACP No.65/2014), the Motor Accident Claims Tribunal (the tribunal) found a case made out for award of compensation on the principle of fault liability and, by judgment dated 11.11.2016, awarded compensation in the total sum of Rs.21,37,192/- directing the insurance company to pay with interest.

2. The appeal at hand has been preferred by the insurance company raising several questions about the computation relating to various heads of damages.

3. During the hearing, it came out that the first respondent claims to be a student of first year of the course of MBBS and had remained under prolonged treatment. It is his contention that he has been permanently disabled pushing back his entire academic career and adversely affecting his future. It was submitted at the hearing that even after four years he still continues to be a student of first year of MBBS, the studies lost during the interregnum, per his submissions being on account of the disability by which he is afflicted due to the injuries sustained in the accident.

4. It is noted that, during the course of inquiry leading to the impugned judgment, the claimant had referred to disability certificate (Ex.PW-6/1) which was issued in August, 2015 but such certificate was not final, it being subject to re-evaluation after two years. The assessment of damages in his favour was made on evidence which includes the said disability certificate, the condition noted therein having not yet settled into one that can be taken as permanent.

5. After some hearing, the counsel for the first respondent submitted that the appeal may be allowed, the contention urged by both sides to be kept open and that the parties may be relegated to the Tribunal for further inquiry so that first respondent can also muster proper evidence about the effect of disability and loss consequently suffered by him. He submitted that he intends to move an appropriate

application before the Tribunal for re-evaluation of his disability in the wake of temporary opinion expressed by disability certificate dated 05.08.2015 (Ex.PW-6/1).

6. The submissions of the first respondent deserve to be accepted. The appeal is allowed. The impugned judgment is set aside. The matter is remanded back to the Tribunal for further inquiry in the course of which the first respondent (the claimant) will be given opportunity to lead additional evidence, followed by opportunity to the contesting respondents to lead evidence in rebuttal, if any. The Tribunal will take a fresh decision, feeling uninfluenced by the view taken in the judgment dated 11.11.2016.

7. The amount deposited by the appellant in terms of order dated 27.01.2017 shall be presently refunded.

8. The statutory amount, if deposited, shall also be refunded to the appellant.

9. The appeal is allowed in above terms.

10. Parties shall appear before the Tribunal on 17th August, 2017.

11. *Dasti* to both the parties.

R.K.GAUBA, J.

JULY 20, 2017

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