

\$~19

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

Decided on: 03rd August, 2017

+ **MAC.APP. 303/2013**

BHUPESH KUMAR

..... Appellant

Through: Mr. Sanjeev Srivastava, Advocate

versus

JHUMAN KHAN & ORS.

..... Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant, then aged 33 years, was working as a Chef with Epicurrean Foods Pvt. Ltd.. He suffered injuries in a motor vehicular accident that occurred on 07.05.2008 due to negligent driving of a truck bearing registration no.HR-47B-1167 (the truck), it colliding against a Santro car bearing registration no.CG-04-1371 in which the claimant was travelling. The truck was driven by the first respondent Jhuman Khan (since expired), it being registered in the name of the second respondent and concededly insured against third party risk with the third respondent. He instituted accident claim case (suit no.866/2010) on 10.09.2008 which was clubbed with another claim case brought by his wife and subjected to inquiry leading to a common judgment dated 11.07.2012 whereby compensation in the sum of

Rs.15,62,000/- was awarded, the liability primarily having been fastened against the third respondent though its plea about breach of the terms and conditions of the insurance policy having been accepted, it having been granted recovery rights against the first and second respondents.

2. The present appeal was filed by the appellant seeking enhancement of the compensation. It is pressed on the sole contention that the injury in the eye has rendered him unable to perform his daily tasks and, therefore, functional disability has not been properly assessed.

3. Having heard the learned counsel and having gone through the record, it is found that the injury in the eye has resulted in affecting the eye sight of the claimant. But then, the tribunal has taken into account the nature of the job in which he was engaged and has assessed the functional disability to the extent of 25% and has awarded compensation on account of loss of future earnings due to such disability appropriately, which is found to be a fair judgment.

4. In view of the above, the appeal is dismissed.

R.K.GAUBA, J.

AUGUST 03, 2017

yg