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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **MAC.APP. 116/2017 & CM Nos.4419-20/2017, 16435/2017**

RELIANCE GENERAL INSURANCE CO LTD. Appellant

Through: Mr. A.K. Soni, Advocate.

Versus

SONU & ORS. Respondents

Through: Mr.Pankaj Kumar Deval and
Mr. Kavinder Singh, Advocate for
Respondent No.1 with father of
respondent No.1 in person.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **25.05.2017**

1. At joint request the appeal is taken up for final disposal.
2. The appellant has impugned the Award of compensation of Rs.18,52,000/- to the injured/respondent no.1 Sonu, who suffered 70% disability in relation to whole body with severe cognitive memory dysfunction i.e, severe memory loss as a result of the motor accident on 20.04.2008. He also suffers from speech disability and there is no likelihood of improvement in his condition. The testimony of the Chairman of the Medical Board (PW2) and his father (PW4) shows that the injured was diagnosed with polytrauma and suffered multiple disabilities and hence his functional disability was assessed as 100%.
3. The insurer has impugned the Award on the ground that: i) it is on the higher side; ii) assessment of 100% functional disability was erroneous, iii) and the grant of compensation of Rs.1,00,000/- each towards pain and suffering and attendant charges, Rs.80,000/- towards loss of enjoyment of

amenities of life and Rs.30,000/- for special diet and conveyance too were unreasonable; and iv) interest at the rate of 9% per annum was unjust.

4. The aforesaid grounds are mere statements without any supporting reasoning. In the circumstances, the Court is unable to accept the said contentions and rejects the same. The Court is of the view that a young man was permanently disabled because of rash and negligent driving of a vehicle insured by the appellant and taking the minimum wages into consideration for calculating the compensation was just and proper. A young life blighted of all dreams and deprived of its human potential, should be granted at the bare minimum compensation, for it to have a chance of dignified survival.

5. Although the Medical Board has certified that the injured was 100% functionally disabled, but the appellants question this medical assessment. The basis of this challenge is unsubstantiated. The assumption that the injured is not 100% functionally disabled would imply that he is otherwise able to discharge some worthwhile functions which eventually could be monetised into employment or vocation. To what degree and in which employment or vocation could this fictional ability be made economically advantageous to the injured is not suggested by the appellant. Indeed, the argument of residual functional ability, would be tested if the appellant/insurer were to offer the injured an employment commensurate with his functional abilities, with all attendant facilities of travel, medical care, expenses towards attendant and special diet, etc. However, no such offer has been made. The injured – Sonu, is evidently not in a physical or mental condition that he could be employed. In the circumstances, the contention that the disability is not 100% is a hollow argument and is rejected.

6. Bearing in mind the facts of the case, the Award of Rs.1,00,000/- towards pain and suffering to a person who is 100% disabled and has been robbed of his memories also, is perhaps on the lower side. How does one begin to imagine the plight of a human being who has no past to recall or to relate to and is left with a life which is shorn of all memories for all times to come. What must be going on in the mind of a human being afflicted by such debilitation. It would amount to a trauma being experienced every moment. The compensation of Rs.1,00,000/- on this account is too meagre. Hence, it is enhanced to Rs.2,00,000/-.

7. Apropos the contention that grant of interest at the rate of 9% is on the higher side, this Court has consistently granted the said rate of interest keeping in mind the dicta of the Supreme Court in ***Municipal Corporation of Delhi Vs. Association of Victims of Uphaar Tragedy AIR 2012 SC 100***, which was followed in ***Sandhya Rani Debbarma & Ors. Vs. The National Insurance CO. Ltd. & Ors. 2016 ACJ 2717***.

8. In view of the above discussion, the appeal is without merit. It is accordingly dismissed. The pending applications also stand dismissed.

9. The appellant shall deposit the enhanced compensation of Rs.1,00,000/- within three weeks from today. The statutory deposit of Rs.25,000/- shall be released in favour of the respondent No.1/beneficiary of the Award for compelling him to contest this appeal. The amounts deposited shall be released in favour of the respondent No.1.

NAJMI WAZIRI, J.

MAY 25, 2017/sb