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

Decided on: 11th October, 2017

+ **MAC APPEAL 235/2011**

KRISHAN KUMAR

..... Appellant

Through: Mr. Navneet Goyal, Advocate

versus

BALDEV SINGH & ORS.

..... Respondents

Through: Mr. J.P.N. Shah and Ms. Komal
Dhingra, Adv. for R-3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant was the claimant before the tribunal in accident claim case (MACT 1039/10/08) instituted on 19.04.2008 to seek compensation for the injuries suffered in a motor vehicular accident that had occurred on 18.02.2008 due to the negligent driving of a truck bearing registration no.HR-38G-9319 admittedly insured against third party risk with the third respondent (insurer).
2. By judgment dated 29.01.2011, the tribunal accepted the said claim on principle of fault liability under Section 166 of the Motor Vehicles Act, 1988 holding the first respondent negligent in driving of the truck and, thus, also holding the second respondent vicariously liable, he being the owner of the truck. The tribunal found the functional disability suffered by the claimant in the process to be to

the extent of 30% thus, on the basis of disability certificate (Ex. PW1/2) showing him to be a permanently disabled person on account of post traumatic stiffness of right ankle and knee, it awarded compensation in the total sum of Rs.1,90,735/-.The said amount includes besides loss of future earning capacity and special diet and conveyance charges, a lumpsum amount of Rs.75,000/- towards pain and suffering, inconvenience, mental shock, disfigurement and loss of amenities, etc.

3. By the appeal at hand, the claimants presses his grievance that all the said non-pecuniary heads of damages could not have been rolled into one lumpsum award in the manner done by the tribunal.

4. Having heard the learned counsel on both sides and having gone through the tribunal's record, this court finds merit in the submission made as above. The disfigurement and loss of amenities has to be treated as distinct heads of non-pecuniary awards. The amount of Rs.75,000/- is treated as the award towards pain and suffering, inconvenience and mental shock. Rs.75,000/- each are added on account of disfigurement and loss of amenities of life. This would mean the award will stand enhanced by Rs.1,50,000/- (Rupees One lakh and fifty thousand). The enhanced portion of the award will carry interest at the rate of 9% p.a. (nine percent) from the date of filing the original petition till payment.

5. The insurer is directed to satisfy the modified award by requisite deposit with the tribunal within 30 days making it available to be released to the claimants.

6. The appeal is disposed of in above terms.

R.K.GAUBA, J.

OCTOBER 11, 2017

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