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

Decided on: 12th July, 2017

+ MAC.APP. 164/2009

MOHD. AJIJ @ AJIT

..... Appellant

Through: Mr. Manish Maini, Advocate
with Ms. Hreeshika Bhargava,
Advocate

versus

DHOOM SINGH & ORS.

..... Respondents

Through: Mr. Niraj Singh, Advocate with
Mr. Prashant Mathur, Advocate
for R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. Appellant suffered grievous injuries in the form of fractures on both bones of the right leg in a motor vehicular accident on 14.09.2006 due to negligent driving of car bearing registration No.DL-1CK-0383 which was admittedly insured against third party risk with the third respondent, it being owned by the second respondent. On his accident claim case (Petition No.1187/2006) instituted on 26.10.2006, the Motor Accident Claims Tribunal (the tribunal) awarded total compensation in the sum of Rs.22,770/- with interest in his favour. The liability was fastened on the insurance company though, on account of breach of terms and conditions of the insurance policy, it

was granted recovery right against the owner of the offending vehicle (i.e, the second respondent).

2. The present appeal was filed seeking enhancement of the compensation.

3. At the hearing, it is noted that the first respondent Dhoom Singh (the driver of the offending vehicle) has not been served. The counsel for the appellant submits that since vehicle was insured and recovery rights were granted against the owner, he would not press recovery against the first respondent. He, thus, is allowed to delete the first respondent from the array. The second respondent despite notice did not appear to contest the appeal.

4. At the hearing the appeal is pressed only to seek enhancement of the compensation under the non-pecuniary head of pain and suffering, the award on that score being Rs.5,000/- only.

5. Having regard the nature of injuries suffered, the compensation under that head should have been much more. It is increased to Rs.30,000/-. In the consequence, the award would stand increased by Rs.25,000/- which shall be paid with corresponding interest by the insurance company by requisite deposit with the Tribunal within thirty days of today.

6. Appeal is disposed of in these terms.

R.K.GAUBA, J.

JULY 12, 2017
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