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

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Date of Decision: 02nd January, 2017

+ **MAC.APP. 169/2016**

AMAN MANOCHA

..... Appellant

Through: **Mr. Vinod Tyagi and Mr.
Siddharth Tyagi, Advocates**

versus

PREM SINGH & ORS

..... Respondents

Through: **Ms. Raveesha Gupta, Advocate
for respondent No.3**

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.2,07,000/- has been awarded to him. The appellant is seeking enhancement of the award amount.
2. The accident dated 28th March, 2015 resulted in grievous injuries to the appellant. The appellant was returning from office to his residence on motorcycle when he was hit by Skoda car bearing No.DL-9CQ-7788 near T-Point Ring Road, Naraina, New Delhi. The appellant suffered fracture in his right leg medial malleolous and distal shaft fibula and was initially taken to Deen Dayal Upadhyay Hospital and thereafter, shifted to Santom Hospital, Prashant Vihar, Delhi where he underwent a surgery on 31st March, 2015 for insertion of a steel rod in his right leg. The appellant remained on leave upto 13th August, 2015. The appellant underwent a second surgery for removal

of the steel rod after the passing of the award on 13th September, 2016 at Indian Spinal Injuries Centre. The doctors removed the steel rod and inserted new steel rod in the surgery and opined that one more surgery will have to be performed after a year. The discharge summary of Indian Spinal Injuries Centre dated 14th September, 2016 has been placed on record. The appellant is on leave from 13th September, 2016 to 13th January, 2017. The certificate of the appellant's employer has been placed on record as Annexure A-35 with this additional affidavit.

3. The Claims Tribunal has awarded Rs.70,000/- towards medical expenditure, Rs.10,000/- towards conveyance, Rs.5,000/- towards special diet, Rs.12,000/- towards attendant charges and Rs.70,000/- towards loss of income, Rs.30,000/- towards pain and suffering and Rs.10,000/- towards loss of amenities of life. Total compensation awarded is Rs.2,07,000/-.

4. Learned counsel for the appellant seeks enhancement of compensation under the heads of pain and suffering, loss of amenities of life, disfiguration, loss of matrimonial prospects. Learned counsel for the appellant also seeks enhancement of compensation under the heads of medical treatment, special diet, attendant charges as well as loss of income. The appellant further seeks compensation for the second surgery underwent by him on 13th September, 2016. It is submitted that the appellant has incurred Rs.94,600/- on the second surgery underwent by him on 13th September, 2016, Rs.12,500/- (@ Rs.2500/- per month for five months) on conveyance, Rs.7,500/- (@ Rs.1500/- per month for five months) on special diet, Rs.10,000/- towards attendant charges (@ Rs.2000/- per month for five months)

and Rs.1 lakh for loss of income for four months from 13th September, 2016 to 13th January, 2017.

5. Learned counsel for respondent No.3 urged that the compensation of Rs.2,60,000/- being claimed by the appellant on account of second surgery underwent by him on 13th September, 2016 is on a higher side. It is submitted that the appellant is entitled to compensation of Rs.80,000/- towards the medical expenditure incurred on the second surgery and reasonable compensation under the other heads.

6. The appellant is present in Court along with his counsel and his condition has been seen by the Court as well as the counsel for respondent No.3. The appellant is having a bandage on the right ankle in which a steel rod has been inserted on 13th September, 2016 and he is unable to stand without the help of a stick. He submits that he is unmarried and has suffered loss of matrimonial prospects for which no compensation has been awarded.

7. The appellant has incurred Rs.94,600/- on the second surgery underwent by him on 13th September, 2016. The Claims Tribunal has awarded Rs.70,000/- for the medical treatment taken by the appellant prior to the passing of the award. A further sum of Rs.94,600/- is awarded to the appellant towards medical expenditure for the second surgery underwent by injured. The Claims Tribunal has awarded Rs.10,000/- under the head of conveyance. A further sum of Rs.12,500/- (@ Rs.2,500/- per month for five months) is awarded to the appellant towards conveyance due to second surgery underwent by him. The Claims Tribunal has awarded Rs.5,000/- under the head of special diet. A further sum of Rs.7,500/- (@ Rs.1,500/- per month for

five months) is awarded to the appellant under this head. The Claims Tribunal has awarded Rs.12,000/- under the head of attendant charges. A further sum of Rs.10,000/- (@ Rs.2,000/- per month for five months) is awarded to the appellant under the this head. The appellant is on leave for four months from 13th September, 2016 to 13th January, 2017 and a further sum of Rs.1 lakh is awarded to the appellant under the head of loss of income. The Claims Tribunal has awarded Rs.30,000/- under the head of pain and suffering and Rs.10,000/- under the head of loss of amenities of life. Considering the injuries suffered by the appellant and the two surgeries underwent by him, the compensation under the head of pain and suffering is enhanced from Rs.30,000/- to Rs.70,000/- and compensation under the head of loss of amenities of life is enhanced from Rs.10,000/- to Rs.38,400/-. The Claims Tribunal has not awarded any compensation to the appellant under the heads of loss of matrimonial prospects as well as disfiguration. A compensation of Rs.50,000/- is awarded under the heads of disfiguration and Rs.50,000/- under the head of loss of matrimonial prospects. The appellant is entitled to the total compensation of Rs.6,00,000/- (Rs.1,64,600/- for medical treatment, Rs.70,000/- for pain and suffering, Rs.38,400/- for loss of amenities of life, Rs.22,500/- for conveyance, Rs.12,500/- for special diet, Rs.22,000/- for attendant charges, Rs.1,70,000/- for loss of income, Rs.50,000/- under the head of disfiguration and Rs.50,000/- towards loss of matrimonial prospects).

8. The appeal is allowed and the compensation awarded to the appellant is enhanced from Rs.2,07,000/- to Rs.6,00,000/- along with interest @ 9% per annum from the date of filing of DAR till

realisation.

9. Respondent No.3 is directed to deposit the enhanced award amount with UCO Bank by means of a cheque drawn in the name of UCO Bank A/c Aman Manocha within 30 days. Upon the aforesaid amount being deposited, UCO Bank shall release a sum of Rs.1,50,000/- to the appellant by transferring the same to his individual savings bank account. The balance amount be kept in five fixed deposits of equal amount for the periods of 1 year, 2 years, 3 years, 4 years and 5 years in the name of the appellant.

10. The appellant shall intimate the particulars of his savings bank account to UCO Bank, Delhi High Court Branch.

11. The monthly interest on the FDRs of the appellant shall be credited in the savings bank account of the appellant.

12. At the time of maturity, the fixed deposit amount shall be credited in the savings bank account of appellant.

13. All the original FDRs shall be retained by UCO Bank, Delhi High Court Branch. However, the photocopies of the same shall be provided to the claimant/appellant.

14. No cheque book or debit card be issued to the claimant/appellant without permission of this Court.

15. No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.

16. The claimant/appellant shall approach the UCO Bank for completing the formalities for the disbursement of the award amount in terms of this order.

17. UCO Bank, Delhi High Court Branch shall ensure that the savings bank account of appellant is individual account and not joint

account.

18. Copy of this judgment be given *dasti* to counsels for the parties.

JANUARY 02, 2017
Rsk

J.R. MIDHA, J.

