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

Decided on: 31st July, 2017

+ MAC.APP. 262/2008

VIKAS

..... Appellant

Through: Mr. Sanjeev Mehta, Adv.

versus

VAKIL

..... Respondent

Through: Mr. Pradeep Gaur & Mr. Amit
Gaur, Advs.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant was the driver of Maruti car bearing registration no. HR 26Q 5215 on 10.06.2003 when it came to be hit by another motor vehicle, it being Tata 709 bearing registration no. UP 17 0957, which was admittedly insured against third party risk with the third respondent (insurer). As a result of collision, he with certain others travelling with him suffered injuries. A number of accident claim cases were filed including one (suit no. 335/2007) instituted by the appellant on 13.11.2003. All the said claim petitions were clubbed for inquiry and were decided by a common judgment dated 17.11.2007 by the motor accident claims tribunal. While upholding the case for compensation on account of fault liability, the tribunal awarded Rs. 46,000/- in favour of the claimant (appellant), directing the insurance

company to pay, this being inclusive of Rs. 4,000/- towards medicines, Rs. 16,000/- towards pain & suffering, Rs. 6,000/- towards conveyance & special diet and Rs.20,000/- towards loss of income.

2. By the appeal at hand, the appellant seeks enhancement of the said compensation.

3. It is noted that the appellant had suffered several injuries including fractured right shoulder. This required prolonged treatment. His evidence clearly showed that the medical care continued till January, 2004 including treatment from private medical practitioners. In these circumstances, as was deposed by him, the loss of income should have been compensated to the extent of eight months as against six months factored in by the tribunal. Therefore, there is a case made out for Rs. 6,600/- being added towards loss of income.

4. The tribunal has made a rough assessment of the expenditure incurred on treatment. The claimant was able to muster proof only about the expenditure incurred during treatment in Sanjay Gandhi Memorial Hospital and Sir Ganga Ram Hospital which was to the tune of Rs. 3,000/-. Since the documents filed indicate the treatment including physiotherapy had continued for several months thereafter, the medical expenditure is increased by Rs. 6,000/-.

5. Having regard to the nature of injuries suffered, non-pecuniary damages on account of pain & suffering are increased to Rs. 20,000/- thereby increasing the award further by Rs. 4,000/-.

6. Thus, there would be net increase of Rs. 16,600/- raising the award to Rs. 62,600/- rounded off to Rs. 63,000/-

7. It is directed that the enhanced portion of the award shall carry interest @ 9% per annum from the date of filing of the appeal.
8. The insurance company will deposit the enhanced portion with corresponding interest with the tribunal within 30 days making it available to be released.
9. The appeal is disposed of in above terms.

JULY 31, 2017
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R.K.GAUBA, J.