

\$~R-201

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

Date of Decision: 12th January, 2017

+ MAC.APP. 451/2008

VINEY VERMA Appellant

Through: Mr. Navneet Goyal and Ms. Sneha
Savant, Advocates

Versus

JITENDER SINGH & ORS. Respondents

Through: Mr. Sudhanshu Tomar, Advocate
for respondent No.2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

J U D G M E N T
(ORAL)

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Impugned Award grants compensation of ₹1,39,300/- with interest to appellant who had sustained permanent disability of 13% in the left lower limb and functional disability of 7% in a road accident on 7th May, 1991. The facts are already noticed in the opening paragraphs of the impugned Award and so, needs no reproduction. Suffice to note that at the time of this accident, appellant was aged 35 years and was earning ₹1,200/- per month as a small time businessman. On the basis of evidence led, the compensation has been granted by the learned Motor Accident

Claims Tribunal under the following heads:-

“1.	<i>On account of medical expenses</i>	₹73,607.00/-
2.	<i>For Loss of Earnings</i>	₹8,175.00/-
3.	<i>On account of pain, suffering, mental Agony</i>	₹20,000.00/-
4.	<i>On account of conveyance</i>	₹3,000/-
5.	<i>On account of special diet</i>	₹5,000/-
6.	<i>On account of permanent disability Suffered</i>	₹19,448.00/-
7.	<i>On account of loss of future life amenities and pleasure</i>	₹10,000/-
<u>Grand Total</u>		<u>₹1,39,230/- ”</u>

In this appeal, enhancement of compensation is sought by appellant. Learned counsel for appellant submits that the disability suffered ought to be taken to be 13% and not 7%, as assessed by the Motor Accident Claims Tribunal and multiplier of 30 ought to be applied instead of 17 and compensation awarded ought to be suitably enhanced.

On the contrary, learned counsel for respondent-owner of vehicle in question submits that the compensation granted is just and proper and no case for enhancement of compensation is made out.

Upon hearing and on perusal of impugned Award and the evidence on record, I find that multiplier of 17 has been rightly applied by learned Motor Accident Claims Tribunal in light of Supreme Court decision in *General Manager, Kerala S.R.T.C. Vs. Susamma Thomas* (1994) 2 SCC 176. While taking into consideration the parameters to assess functional disability, as reiterated by Supreme Court in *Raj Kumar Vs. Ajay Kumar & anr.* (2011) 1 SCC 343, I find that that appellant had suffered crush

injuries on his left leg with compound comminuted fracture of both the bones of left leg but the Disability Certificate (*Ex. P-1*) reveals the nature of injuries suffered as “*old crush injury on left leg*”. Appellant in his evidence has not asserted as to what is the nature and extent of permanent disability suffered by him nor any additional evidence has been led in this regard. Therefore, I find that learned Tribunal has rightly taken the functional disability to be 7% in view of the Disability Certificate (*Ex. P-1*). The compensation awarded under the other heads also appear to be reasonable.

In view of the aforesaid, finding no substance in this appeal, it is dismissed.

(SUNIL GAUR)
JUDGE

JANUARY 12, 2017

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