

\$~R-490

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 15th November, 2017

+ MAC.APP. 420/2012

SOM PRAKASH SHARMA

..... Appellant

Through: None.

versus

ROHIT YADAV & ANR.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant was the claimant before the accident claims tribunal in accident claim case (case no. 416/10), instituted on 13.09.2010, whereby he sought compensation for injuries suffered in a motor vehicular accident that occurred on 20.06.2010, statedly due to negligent driving of motor vehicle described as Honda Accord Car bearing registration No. DL 2F BQ 0019. The tribunal held inquiry and, by judgment dated 17.12.2011, awarded compensation in the total sum of Rs. 66,279/- directing the second respondent (insurer) of the offending vehicle to pay. The said award was made inclusive of compensation towards loss of income for the period of treatment for the injuries after the accident, the income for such purposes having been assumed to be Rs. 5,278/- on the basis of minimum wages, since

no income proof had been adduced. The tribunal also added Rs. 20,000/- under the head of pain & suffering.

2. The appeal was filed, *inter alia*, on the grounds that the income revealed by document referred to as “Ex.PW-1/7” should have been accepted and the period of treatment taken as sixteen months, the awards under the other heads being inadequate.

3. The appeal was admitted and directed to be taken up in due course in the list of ‘regulars’ as per order dated 15.02.2017. When it is called out on its own turn, there is no appearance on behalf of the appellant or the respondents.

4. The record of inquiry before the tribunal has been perused. It is noted that the claimant had appeared as his own witness (PW-1) on 17.02.2011 and tendered his affidavit (Ex.PW-1/A) in which he had referred to the document (Ex.PW-1/7) as the certificate of income (in para 8). While testifying before the tribunal, however, he sought to restrict the proof through his testimony to only some of the documents mentioned in the said affidavit and, therefore, took the permission of the tribunal to renumber the exhibits. Amongst the documents, which were eventually proved on 17.02.2011, followed by continued testimony recorded on 28.03.2011, the said certificate of income was omitted.

5. In these circumstances, the tribunal was fully justified in concluding that the income had not been proved. Reference to document which was not proved in the appeal is not fair. Having

regard to the nature of injuries suffered, there being no case of permanent disability, the award is found to be just and adequate.

6. The appeal is dismissed.

R.K.GAUBA, J.

NOVEMBER 15, 2017

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