$~49 to 51 *(common order)*

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

Decided on: 18th July, 2017

\+ MAC.APP. 257/2006

SEEMA GOEL ..... Appellant

Through: Mr. Kanwal Chaudhary, Advocate with Mr. Rishu Kant Sharma, Advocate

versus

NATIONAL INSURANCE CO. & ORS. ..... Respondents

Through: Mr. Pankaj Seth, Advocate

\+ MAC.APP. 269/2006

VIPIN GOEL ..... Appellant

Through: Mr. Kanwal Chaudhary, Advocate with Mr. Rishu Kant Sharma, Advocate

versus

NATIONAL INURANCE CO. & ORS. ..... Respondents

Through: Mr. Pankaj Seth, Advocate

\+ MAC.APP. 270/2006

MANISHA MITTAL ..... Appellant

Through: Mr. Kanwal Chaudhary, Advocate with Mr. Rishu Kant Sharma, Advocate

versus

NATIONAL INSURANCE CO. & ORS. ..... Respondents

Through: Mr. Pankaj Seth, Advocate

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The three appellants herein suffered injuries in a motor vehicular accident that occurred on 06.05.2001 involving negligent driving of car bearing registration no.DL-7CB-3625 (offending vehicle), it concededly being insured against third party risk with National Insurance Company Limited (the first respondent) for the period in question. The claim petitions (Petition No.300-302/2003) instituted by them on 26.11.2002 were directed against the first and the second respondent, the later being the owner and driver of the offending vehicle.

2. The cases were clubbed for inquiry. On conclusion of the inquiry, the Motor Accident Claims Tribunal (the tribunal), by common judgment dated 05.12.2005, upheld the case as to the injuries suffered due to negligence driving of the offending vehicle. It assessed the compensation and directed the insurance company to pay.

3. The appellants have come up with these appeals seeking enhancement of compensation.

4. In the case of claim of Seema Goel (MAC APP.257/2006), the tribunal awarded the compensation calculating it as under:-

Sl. No.	Head	Amount (in Rs.)
(i)	Nature of injuries/reimbursement of medical expenses	19,704/-
(ii)	Pain and suffering	20,000/-
(iii)	Loss of income	6,000/-
(iv)	Loss of amenities of life/permanent disability	25,000/-
(v)	Conveyance/special diet	5,000/-
	Total Compensation	Rs.75,704/-

5. The learned counsel for the appellant argues that the award on account of pain and suffering and loss of amenities of life/permanent disability is grossly inadequate. A perusal of the tribunal's record shows that this claimant had suffered several injuries including on the chest, back and what is most grievous, a lacerated wound on the upper eye-lid (right eye), the said injury having resulted in multiple fractures involving floor of the orbit in the right eye. Though surgery was advised, it appears the claimant did not undergo such procedure. The evidence of Dr.A.K. Grover (PW-10) of Sir Ganga Ram Hospital where treatment was taken. It proved that the eyeball has been compressed and got displaced which required artificial implant/repair. The injury has thus left a lasting effect on the quality of life.

6. Having regard to these facts, the amount of Rs.20,000/- towards pain and suffering and Rs.25,000/- towards loss of amenities of life/permanent disability seems grossly inadequate. The said awards are increased to Rs.75,000/- each. In the result, there would be net

increase of Rs.1,05,000/- as compensation in favour of appellant Seema Goel, which shall be paid by the insurance company with interest as levied by the tribunal.

7. In the case of appellant Vipin Goel (MAC APP.269/2006), the compensation as awarded by the tribunal was calculated thus:-

Sl. No.	**Head**	**Amount (in Rs.)**
(i)	Nature of injuries/ medial reimbursement	1,43,305/-
(ii)	Pain and suffering	75,000/-
(iii)	Loss of income	75,000/-
(iv)	Loss of earning capacity /permanent disability	1,50,000/-
(v)	Physiotherapy and future medical expenses	25,000/-
(vi)	Conveyance/special diet/attendant charges	42,500-
	Total Compensation	Rs.5,10,805/-

8. The evidence shows this claimant had suffered comminuted fracture in the right femur bone. The surgical procedure which was undergone resulted in interlocking nail of the right femur bone and thereafter bone grafting. Indeed, there has been prolonged hospitalization and surgical procedures suffered. The tribunal assessed the claimant to have suffered disability to the extent of 20% and has added compensation on account of loss of earning capacity on that score. The grievance of the claimant pertains to the award of Rs.75,000/- towards pain and suffering. The submission is that this was inadequate.

9. Having regard to the nature of injuries suffered and the prolonged treatment undergone, as indeed the impact on the quality of life even in future, the grievance seems to be justified. The award under the head of damages for pain and suffering is increased to Rs.1,50,000/-. There is, thus, net increase of Rs.75,000/-, which shall be paid by the insurance company with corresponding interest as levied by the tribunal.

10. In the case of Manisha Mittal (MAC APP.270/2006), the compensation was worked out by the tribunal thus:-

Sl. No.	**Head**	**Amount (in Rs.)**
(i)	Nature of injuries/reimbursement of medical expenses	42,909/-
(ii)	Pain and suffering	35,000/-
(iii)	Loss of income	44,000/-
(iv)	Loss of earning capacity/permanent disability	50,000/-
(v)	Future medical expenses/physiotherapy	45,000/-
(vi)	Conveyance	15,000/-
(vii)	Special diet	2,500/-
(viii)	Attendant charges	25,000/-
	Total Compensation	Rs.5,59,409/-

11. The grievance of the appellant concerns the award of Rs.35,000/- only towards pain and suffering.

12. On perusal, it is found that this claimant had suffered fracture of acetabulum right with fracture of lower one-third of left ulna bone. In the surgical procedure undergone, a plate was applied to heal and treat the fractured ulna bone. The injury resulted in spinal cord contusion/haematoma and weakness of the left lower limb. The tribunal found the functional disability to be to the extent of about 14% for which compensation has been awarded towards loss of future earning capacity.

13. Having regard to the above facts, the compensation on account of pain and suffering is inadequate. It is increased to Rs.1,50,000/-. Thus, there would be a net increase of Rs.1,15,000/- which shall be paid by the insurance company with corresponding interest at the rate as levied by the tribunal.

14. The insurance company shall pay the enhanced compensation in terms of the above directions by requisite deposits with the tribunal within thirty days.

15. The appeals are disposed of in above terms.

R.K.GAUBA, J.

JULY 18, 2017
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