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

Decided on: 13th September, 2017

+ **MAC APPEAL No. 282/2010**

NEW INDIA ASS. CO. LTD. Appellant
Through: **Mr. D.D. Singh, Mr. Navdeep Singh
& Mr. Seerat Singh, Advs.**

Versus

NARESH MANDAL & ORS. Respondents
Through: **None.**

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The first respondent, then aged 28 years, working as manual labour, suffered injuries in motor vehicular accident that occurred on 15.06.2007 when the bicycle on which he was riding was hit at about 11 a.m. near Kesho Pur, Vikas Puri by bus bearing registration no. DL 1PB 4731, admittedly insured against third party risk with appellant insurance company for the period in question. He instituted accident claim case (suit no. 323/2009) on 01.09.2007 impleading the appellant (insurer) and the driver and owner respectively of the bus, the latter two being the second and third respondents in the appeal. The Tribunal held inquiry in the course of which it referred the claimant for evaluation of his disability by a board of doctors of Safdarjang Hospital of the Govt. of India which issued certificate dated 10.07.2009 (Ex.PW-1/57) affirming that the claimant is a case of

permanent physical handicap assessed to the extent of 50% on account of Traumatic Quadriplegia with neurogenic bladder and bowels. Dr. Rajinder Sharma (PW-2), one of the members for the said board of doctors, was examined at the inquiry, he corroborating the evidence of the claimant (PW-1) to the effect that on account of the injuries suffered, the claimant has been permanently disabled with poor control on his bowel and bladder and on such account he was unable to work as a labourer leave alone perform any strenuous duty or even wield any tool or carry building material. Having regard to these facts, the Tribunal took it as a case of 100% functional disability and calculated the compensation accordingly, awarding an amount of Rs. 12,91,790/- directing the insurer to pay with interest.

2. The appeal by the insurer questions the afore-mentioned computation of loss of future earnings due to disability, the submissions made by the learned counsel being found to be devoid of substance. Having regard to the nature of avocation and the medical condition affirmed on oath by the medical officer who was a member of the board of doctors, the conclusions reached by the Tribunal do not call for any interference.

3. The appeal is dismissed.

4. The statutory amount is refunded after proof is shown of the award having been satisfied.

R.K.GAUBA, J.

SEPTEMBER 13, 2017

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