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

Decided on: 16th November, 2017

+ **MAC APPEAL 519/2012**

MASTER DEV BHARDWAJ

..... Appellant

Through: **Mr. R.K. Bachchan, Advocate**

versus

ARVIND KUMAR SHARMA & ORS. Respondents

Through: **Mr. Pankaj Seth, Adv. for R-3**

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant was a child aged 5 years when he suffered injuries in a motor vehicular accident that occurred on 27.02.2010, involving negligent driving of a motor vehicle described as Tata Indica car bearing registration no.DL-4CU-9558 which was insured against third party risk with the third respondent for the period in question. On his accident claim case (MACT suit no.106/10) instituted on 01.04.2010, through his father (natural guardian), the Motor Accident Claims Tribunal (Tribunal) held inquiry and, by judgment dated 13.02.2012, awarded compensation in the total sum of Rs.4,17,400/-, fastening the liability on the insurer to pay with interest at the rate of 7.5% p.a. The amount of compensation awarded includes Rs.50,933/- towards cost of treatment, Rs.10,000/- each towards special diet and conveyance charges, Rs.86,400/- towards loss

of future income due to disability, Rs.60,000/- towards pain and suffering and Rs.2,00,000/- towards loss of marriage prospects.

2. The appeal filed seeking enhancement of the compensation is pressed only on the grounds that the award towards pain and suffering is inadequate and additionally that some amount should have been added as damages for loss of amenities of life. The grievance is also raised about the rate of interest.

3. It is noted that the tribunal found the functional disability suffered to be 32% in relation to the right lower limb. Since the disability is permanent (Ex. P-1) and the treatment undergone was for a prolonged period, the amount of compensation towards pain and suffering is increased to Rs.1,00,000/- and another amount of Rs.1,00,000/- is added towards loss of amenities of life. Consequently, there shall be increase in the award by Rs.1,40,000/- (Rupees One lakh and forty thousand only).

4. Following the consistent view taken by this Court, the rate of interest is increased to 9% per annum from the date of filing of the petition till realization. [see judgment dated 22.02.2016 in MAC.APP. 165/2011 *Oriental Insurance Co Ltd v. Sangeeta Devi & Ors.*]

5. The third respondent (insurer) shall be liable to satisfy the enhanced award by requisite deposit with the tribunal within 30 days, the amount to be paid in terms of this judgment to be released to the claimant in the form of interest bearing fixed deposit receipt taken out from a nationalized bank for a period of seven years with right to draw periodic interest.

6. The appeal is disposed of in above terms.

R.K.GAUBA, J.

NOVEMBER 16, 2017

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