$~R-591

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

Decided on: 29th November, 2017

\+ MAC APPEAL 973/2012

SANJAY ..... Appellant
Through: Mr. S. N. Parashar, Advocate

versus

RAFIQ AHMAD & ORS. ..... Respondents
Through: Ms. Neerja Sachdeva, Advocate for R-3

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

JUDGMENT (ORAL)

1. The appellant was the claimant before the tribunal in accident claim case (Suit No.560/2010) instituted on 06.09.2010 seeking compensation for the injuries suffered in a motor vehicular accident that had occurred on 07.08.2010 due to negligent driving of a motor vehicle bearing registration no.DL-1PA-4839 which was admittedly insured against third party risk for the period in question with the third respondent (insurer). On inquiry, the tribunal found, by judgment dated 09.01.2012, that the injuries suffered by the claimant in the said accident had rendered him permanently disabled, his functional disability having been assessed to the extent of 75%. The tribunal awarded Rs.15,60,000/- as total compensation, this inclusive of Rs.8,25,000/- towards loss of income and future earnings due to

permanent disability, the liability to pay the compensation so determined having been fastened on the insurer with interest @ 7.5% per annum.

2. The appeal seeking enhancement is pressed only on the grounds that while calculating loss of future income, the element of future prospects was not factored in and the rate of interest levied is on the lower side.

3. It is noted that the appellant was 31 years old on the relevant date. His income was notionally assessed with the help of minimum wages of an unskilled workman assessed @ Rs.5278/- per month. Having regard to the ruling of a Constitution Bench of the Supreme Court rendered on 31.10.2017 in *SLP (C) 25590/2014, National Insurance Company Ltd. Vs. Pranay Sethi and Ors.,* the element of future prospects to the extent of 40% deserves to be added. The loss of income in future due to disability is recalculated as (5278/- x 140/100 x 75/100 x 12 x 16) Rs.10,64,044.80 rounded off to Rs.10,65,000/-.

4. The tribunal awarded Rs.8,25,000/- under this head. The award would thus need to be increased by (10,65,000/- (-) 8,25,000/-) Rs.2,40,000/-. The award is increased to (15,60,000/- + 2,40,000/-) Rs.18,00,000/- (Rupees Eighteen Lacs only).

5. 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*.].

6. The third respondent is directed to satisfy the enhanced award by requisite deposit with the tribunal within thirty days, it to be

released in entirety to the claimant in the form of fixed deposit receipt to be taken out from a nationalized bank for a period of seven years with right to draw periodic interest.

7. The appeal stands disposed of in above terms.

R.K.GAUBA, J.

NOVEMBER 29, 2017
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