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

Decided on: 30th October, 2017

+ **MAC APPEAL No. 666/2011**

NATIONAL INSURANCE COMPANY LTD. Appellant
Through: Mr. Pankaj Seth, Adv.

versus

VIJAY KUMAR & ORS. Respondents
Through: Mr. R.K. Bachchan, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The first respondent had instituted accident claim case (MACP 168/2009) on 31.03.2009 which was decided by the tribunal, by judgment dated 02.04.2011, returning a finding that he (the claimant) had suffered permanent disability on account of injuries suffered in a motor vehicular accident that took place on 04.02.2009 due to negligent driving of bus bearing registration no. DL 1PB 1065 (the bus), his functional disability having been evaluated as 40%, this leading to the award in the sum of Rs. 6,89,045/- being granted, the liability being fastened against the insurance company.

2. The appeal is pressed by the insurer to question the assessment of functional disability. Having heard the learned counsel for the insurer and having perused the record, this Court finds that the view taken by the tribunal does not call for any interference. The injuries

suffered by the claimant included crush injuries in the right elbow bone. This has rendered him permanently disabled, his condition having been certified as permanent disability to the extent of 40% (Ex.PW-2/X). Having regard to the fact that the claimant was earning his livelihood initially as a salesman in a saree shop and later as a field boy/recovery agent for a financial company, the assessment of functional disability made by the Tribunal is just and proper.

3. The appeal is dismissed.
4. Out of the amount deposited by the insurance company in terms of order dated 25.07.2011 some portion has already been released. The balance lying in deposit shall also now be released to the claimant in terms of the impugned judgment.
5. The statutory deposit shall be refunded.

OCTOBER 30, 2017
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R.K.GAUBA, J.

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