

\$~R-224

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

Decided on: 18th September, 2017

+ **MAC.APP. 448/2010 and CM APPL.12733/2010**

KANAHIYA LAL @ KANAHIYA Appellant
Through: Ms. Komal Dhingra, Advocate
for Mr. J.P.N. Shahi, Advocate

Versus

PADAM SINGH & ORS. Respondents
Through: Nemo.

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

JUDGMENT (ORAL)

1. The appellant was injured in a motor vehicular accident that occurred on 14.01.2005 due to negligent driving of motor vehicle described as dumper bearing registration No.DL-1GB-3424, admittedly registered in the name of the second respondent (Municipal Corporation of Delhi) (MCD), it being driven by its employee Padam Singh (first respondent). He filed accident claim case (MACT No.701/09) on 16.03.2005 seeking compensation. The tribunal held inquiry and, by the judgment dated 04.01.2010, returned finding to the effect that the accident had indeed occurred due to negligent driving of the said vehicle by the first respondent, holding him and the second respondent jointly and severally liable to pay the compensation. The tribunal also found that the appellant (claimant) had been rendered

permanently disabled since his left leg above knee had been amputated, his permanent disability having been certified (Ex.PW-1/B) by board of doctors of Safdurjung Hospital on 06.10.2006 to be to the extent of eighty per cent (80%) in relation to the said left lower limb. The tribunal concluded, having regard to the fact that the claimant was working for gain as a labourer, the functional disability to be to the extent of seventy per cent (70%) and granted compensation in the total sum of Rs.7,65,400/-, calculating it thus:-

Sl.No.	Head	Amount in (Rs.)
1.	Medicine and treatment	25,000/-
2.	Loss of income	17,400/-
3.	Loss of earning power	6,58,000/-
4.	Loss of amenities	25,000/-
5.	Pain and suffering	25,000/-
6.	Conveyance and special diet	15,000/-
	Total	7,65,400/-

2. The tribunal also levied interest @ nine per cent (9%) per annum on the said amount of compensation requiring it to be paid within thirty days, failing which the future interest would stand enhanced.

3. The claimant filed the present appeal seeking enhancement of compensation. It is pressed on his behalf with submissions that the

awards under non-pecuniary heads of loss of amenities of life and pain and suffering are deficient.

4. Having regard to the nature of injuries sustained and the permanent disability consequently suffered, the above plea is found to be correct. The awards under the loss of amenities of life and pain and suffering are increased to Rs.1,00,000/- each. This would mean, the total award will be enhanced by Rs.1,50,000/-. (Rupees One Lakh Fifty Thousand Only.)

5. Ordered accordingly. It shall carry interest as levied by the tribunal.

6. The second respondent (MCD) is directed to pay the enhanced compensation with interest by requisite deposit with the tribunal within thirty days. Upon such deposit being made, the amount shall be released to the claimant in the form of interest bearing 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 along with pending application stand disposed of.

R.K.GAUBA, J.

SEPTEMBER 18, 2017

vk