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

Decided on: 15th September, 2017

+ **MAC APPEAL No. 412/2010**

SANJAY KUMAR Appellant
Through: Mr. O.P. Mannie, Adv.

versus

VIPIN KUMAR & ORS. Respondents
Through: None.

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

JUDGMENT (ORAL)

1. The appellant suffered injuries in a motor vehicular accident that occurred on 22.04.2006 due to negligent driving of van bearing registration no. DL 3CT 2611, which was admittedly insured against third party risk with third respondent (insurer) for the period in question. He instituted accident claim case (petition no. 347/2009) on 03.06.2006, on which the tribunal, after inquiry, awarded compensation in the sum of Rs. 7,22,400/-, by judgment dated 16.03.2010, directing the insurer to pay with interest, calculating it thus:-

S.No.	Heads	Compensation
1.	Medical Treatment	Rs.1,74,000/-
2.	Conveyance	Rs. 5,000/-

3.	Special diet	Rs. 5,000/-
4.	Loss of income	Rs. 67,000/-
5.	Loss of earning capacity	Rs.3,41,400/-
6.	Pain & sufferings	Rs. 30,000/-
7.	Loss of amenities of life	Rs. 50,000/-
8.	Loss of marriage prospects	Rs. 50,000/-
	Total compensation	Rs. 7,22,400/-

2. The claimant is in appeal submitting that the award is deficient. At the hearing it is pointed out that he had suffered multiple fractures including that of the non-union shaft of right femur bone which required prolonged hospitalization and treatment including surgical procedures that required fixation by nail, the period of immobilization on this account being as large as 18 months, the injuries rendering him permanently disabled, the disability having been certified (Ex.PW-7/A) to the extent of 57% in relation to the right lower limb. It is pointed out that the tribunal assessed the functional disability to the extent of 30% and has awarded compensation including on account of loss of earning capacity for future.

3. At the hearing, the claimant pressed for modification of the award to seek inclusion of Rs. 50,000 which was the estimate given by Dr. Sunil Kumar (PW-5) as to the expenditure expected to be incurred in the future treatment wherein the surgical procedure would be performed to remove the implants. The claimant also seeks enhanced damages under the heads of pain & suffering and loss of amenities of life.

4. In view of the above state of evidence on record, there is no reason why the award should not have covered the future medical expenses. Thus, the amount of Rs. 50,000/- under the said head deserves to be added. Given the long suffering that the claimant has undergone and the nature of the handicap that he would suffer throughout his life, the awards under the heads of pain & suffering and loss of amenities of life are increased to Rs. 75,000/- each.

5. The above would result in increase in the award by (50,000 + 45,000 + 25,000) Rs. 1,20,000/- (Rupees one lac and twenty thousand only). Ordered accordingly. The enhanced portion shall carry interest @ nine per cent (9%) per annum from the date of filing of the petition till realization. It shall be paid by the third respondent by requisite deposit with tribunal within thirty days.

6. The appeal is disposed of in above terms.

SEPTEMBER 15, 2017

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R.K.GAUBA, J.

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