

\$~R-541

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

Decided on: 22nd November, 2017

+ **MAC APPEAL 748/2012**

ROGER WILSON Appellant

Through: None

versus

**BAJAJ ALLIANZ GENERAL INSURANCE
COMPANY LTD. & ORS.** Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant was a 15 year old boy, studying in eighth standard at the time of accident. On 03.07.2002 he suffered injuries in a motor vehicular accident that occurred due to negligent driving of car bearing registration no.DL-2CW-0719 (car). On his accident claim case (suit no.511/2004) instituted by his father and natural guardian on 07.05.2003, the Motor Accident Claims Tribunal (Tribunal) held inquiry and, by judgment dated 05.12.2011, awarded total compensation in the sum of Rs.5,09,000/- fastening the liability on the first respondent (insurer) to pay, it having admittedly issued an insurance policy covering third party risk in respect of the said car.
2. The appeal at hand was filed seeking enhanced compensation. It was admitted and put in the category of 'Regulars' as per order

dated 19.03.2015. It was taken up on two dates thereafter in an effort to reach an amicable settlement through *Lok Adalat* but with no fruitful result. When it is taken up in its turn, there is no appearance on behalf of the appellant.

3. The prime contentions raised in the appeal are that as a result of the injuries sustained, the claimant's educational pursuit has suffered and, therefore, the loss of earning capacity should have been considered on the assumed income of Rs.35,000/- p.m. It is also the grievance in appeal that the medical expenditure has not been properly taken care of and loss of future income awarded is inadequate, there being deficiency in the awards under the non-pecuniary heads of damages as well.

4. On perusal of the record, it is noted that the claimant was examined by a board of doctors of All India Institute of Medical Sciences (AIIMS) under the direction of the tribunal, it issuing its report dated 23.06.2008 (page 319 of the tribunal's record) indicating that the disability suffered was to the extent of 3% in relation to left lower limb on account of traumatic brain injury sequelae with minimal restriction of range of motion at left ankle joint.

5. Having regard to the above finding, the award granted by the tribunal is found to be just and adequate.

6. The appeal being devoid of substance is dismissed.

R.K.GAUBA, J.

NOVEMBER 22, 2017

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