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

Decided on: 1st August, 2017

\+ MAC APPEAL No. 432/2008

K.B. SHUKLA ..... Appellant
Through: Mr. Harihar Pratap Singh, Adv.

versus

HARDAYAL SINGH & ORS. ..... Respondents
Through: Mr. Pankaj Seth, Adv. for R-3.

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

JUDGMENT (ORAL)

1. The appellant, then 40 years old, had suffered injuries in motor vehicular accident that occurred on the night of 11-12 December, 1994 due to negligent driving of taxi bearing no. DL 1T 0727, which was admittedly insured against third party risk with the third respondent (insurer) for the relevant period. The injuries included perforation of left eye due to a piece of wood piercing through the said part of the body, rendering the appellant totally blind in that eye.

2. In the inquiry, on his claim petition (suit no. 248/2007), the claimant proved disability certificate (Ex.PW-2/1) issued by board of doctors of Dr. Rajendera Prasad Center for Ophthalmic Sciences, All India Institute of Medical Sciences on 26th April, 2004 confirming loss of one eye. The tribunal awarded compensation in the sum of

Rs.2,09,250/-, this inclusive of loss of future income on account of permanent disability in the sum of Rs. 1,34,250/- calculated on the basis of finding that the disability was to the extent of 30%, the calculation having been made on the notional income worked out as Rs. 2482.5 per month with the multiplier of 15.

3. The appeal instituted to seek enhancement of compensation is pressed only on the ground that the permanent disability was not properly assessed. Reference is made by the learned counsel for the appellant to item 25 appearing in Part II of the first schedule appended to the Employees Compensation Act, 1923 wherein loss of one eye, without complication, the other eye being normal is taken as loss of earning capacity to the extent of 40%.

4. This Court agrees with the submission that the disability should have been treated as 40%. Thus, the loss of future income on account of above said disability is re-computed as (2482.5 x 40÷100 x 12 x 15) Rs. 1,78,740/-. This would mean the compensation deserves to be increased by 178740-134250 Rs. 44,490/- rounded off to Rs. 45,000/-. Ordered accordingly. Needless to add, it shall carry interest as levied by the tribunal.

5. The entire enhanced portion of the compensation with corresponding interest shall be paid by the third respondent (insurer) by appropriate deposit with the tribunal within 30 days, making it available to be released.

6. The appeal is disposed of in above terms.

R.K.GAUBA, J.

AUGUST 01, 2017/nk