

\$~30

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

%

Date of Decision: 2nd February, 2017

+ **MAC.APP. 699/2012**

ORIENTAL INSURANCE CO LTD Appellant

Through: **Mr. Pavan Kumar proxy for Mr.
A.K. Soni, Advocate**

versus

HARSH & ORS Respondents

Through: **Mr. Sushil Kumar Tyagi,
Advocate for respondent No.1**

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.10,35,000/- has been awarded to respondent No.1.

2. The accident dated 27th March, 2006 resulted in compound fracture right supracondyler of femur and compound fractures of both bones of right forearm and crush injury in the right index finger to respondent no.1. The injured remained admitted in Sanjay Gandhi Memorial Hospital, Mangolpuri, Delhi from 28th March, 2006 to 06th April, 2006 and in Orthoplus Hospital, Najafgarh, Delhi from 06th April, 2006 to 23rd April, 2006. He was again admitted from 03rd July, 2006 to 04th July, 2006 in Orthoplus Hospital. Thereafter, the respondent No.1 was admitted in Maharaja Agrasen Hospital, Punjabi Bagh Delhi on 25th October, 2016 and was discharged on 04th

November, 2006. He was operated on 28th October, 2006 and a nail was inserted. The respondent No.1 cannot move his right knee. The index finger of the right hand was amputated which resulted in permanent disability of 72% as per the disability certificate in relation to right lower and upper limb.

3. The Claims Tribunal awarded Rs.2 lakh towards medical treatment, Rs.20,000/- towards conveyance and special diet, Rs.45,000/- towards loss of income, Rs.1 lakh towards pain and suffering, Rs.1 lakh towards loss of amenities of life and Rs.5,70,000/- towards loss of future income. The total compensation awarded by Claims Tribunal is Rs.10,35,000/-.

4. Learned counsel for the appellant urged at the time of hearing that the compensation awarded to respondent No.1 is on a higher side. It is submitted that the addition of 50% on the minimum wages for computation of the loss of earning capacity be set aside.

5. Learned counsel for respondent No.1 urged at the time of hearing that the compensation awarded to respondent No.1 is fair and reasonable and does not warrant any reduction. He further submits that no compensation has been awarded to respondent No.1 towards disfigurement and loss of matrimonial prospects.

6. Respondent No.1 is present in Court and his injuries have been seen.

7. This Court is of the view that the compensation awarded to respondent No.1 is just, fair and reasonable and does not warrant any reduction. The addition of 50% towards inflation on the minimum wages is just, fair and reasonable.

8. Learned counsel for the appellant seeks recovery right against respondents No.2 and 3. Notice of this appeal was issued only to

respondent No.1 with respect to the quantum of compensation and, therefore, the ground for grant of recovery rights is not open to challenge any more.

9. There is no merit in the appeal which is dismissed.

10. The appellant has deposited the entire award amount which has been disbursed to respondent No.1 vide order dated 16th December, 2016.

11. The statutory amount be refunded back to the appellant.

12. Copy of this judgment be given *dasti* to counsels for the parties under signatures of the Court Master.

FEBRUARY 02, 2017
rsk

J.R. MIDHA, J.