$~R-374

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

Decided on: 30th October, 2017

\+ MAC APPEAL No. 670/2011

SMT. BABLI ..... Appellant

Through: Mr. R.K. Bachchan, Adv.

versus

BIJENDRA KUMAR & ORS. ..... Respondents

Through: Mr. Arihant Jain, Adv. for Ms. Shantha Devi Raman, Adv. for R-3.

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

JUDGMENT (ORAL)

1. The appellant, then aged 32 years, in private employment, suffered injuries in motor vehicular accident that occurred on 30.08.2007 and has been rendered permanently disabled. On her accident claim case (MACP 823/2010), instituted on 26.09.2007, the Tribunal, by judgment dated 29.04.2011, assessed her functional disability to the extent of 45% and awarded Rs. 5,55,000/- as compensation with interest @ 7.5 % per annum, fastening the liability to pay on the third respondent (insurer), it having concededly issued an insurance policy covering third party risk in respect of the vehicle described as Dumper Tata truck bearing no. HR 38C 3539.

2. The appellant presses the appeal for enhancement on the ground that given the extent of handicap assessed by the Tribunal, the amounts of Rs.95,000/- towards pain & suffering and a composite sum of Rs. 90,000/- for loss of amenities of life and disfigurement are inadequate and that since she was granted loss of earning for six months, attendant charges should also have been calculated for similar period. It is also submitted that the rate of interest levied is on the lower side.

3. Having regard to the nature of injuries and the permanent disability suffered, as indeed its extent, the submissions of the claimant about the non-pecuniary damages are found to be correct. The award on account of pain & suffering is increased to Rs. 1,50,000/- and the award under the head of loss of amenities of life at Rs. 90,000/- is increased to Rs. 1,00,000/-, while an amount of Rs. 50,000/- is added towards disfigurement. The contention about attendant charges also being correct, the said amount is increased by Rs. 7,000/-.

4. Thus, there shall be a net increase in the award by Rs. (55,000 + 10,000 + 50,000 + 7,000) Rs. 1,22,000/- (Rupees One lac and twenty two thousand only). Ordered accordingly.

5. Following the consistent view taken by this Court [see judgment dated 22.02.2016 in MAC.APP. 165/2011 *Oriental Insurance Co Ltd v. Sangeeta Devi & Ors*.], the rate of interest is increased to 9% per annum from the date of filing of the petition till realization.

6. The insurer is directed to satisfy the enhanced award by requisite deposit with the Tribunal within thirty days. Such amount shall be released to the claimant in the form of interest bearing fixed deposit receipt taken out from a nationalised bank initially for a period of seven years with right to draw periodic interest.

7. The appeal is disposed of in above terms.

R.K.GAUBA, J.

OCTOBER 30, 2017
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