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

Decided on: 21st September, 2017

+ **MAC APPEAL No. 641/2010**

PHOOL SINGH

..... Appellant

Through: None.

versus

**RAJASTHAN STATE ROAD TRANSPORT CORPORATION
& ANR.**

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. A motor vehicular accident which statedly occurred on 06.01.1999 involving negligent driving of bus bearing registration no. RJ 02P 927 of second respondent Rajasthan State Road Transport Corporation (RSRTC), gave rise to three claim petitions being presented, one of them (suit no. 523/2008) instituted on 17.08.1999 by the appellant herein, he being the driver of truck no. DEL 4436, the others (suit no.525 and 524 of 2008) also instituted on the same date being for compensation on account of injuries suffered by two other persons they being Birju and Birbal respectively. It was the case of the three claimants that they were together, the appellant herein being the driver of the truck. It is stated in the claim petition that the truck had developed some snag in the area of village Mohda, PS Sadar

Ambala, Haryana on GT Road and that while the said three persons were busy changing its tyre at about 6.30 A.M. the bus driven in a negligent driving by the second respondent came and hit against a three wheeler parked behind the truck which resulted in the three persons including the claimant/appellant, coming beneath the truck and suffering injuries.

2. The tribunal held inquiry and decided the three claim cases by common judgment dated 04.01.2010. In the case of the claim petition for and on behalf of the appellant he was granted Rs. 13,000/- as compensation with interest @ 9% per annum, this inclusive of Rs. 10,000/- towards medical expenditure and Rs. 3,000/- towards conveyance.

3. The appellant felt aggrieved with the above-mentioned judgment and came up to seek enhancement of the compensation. He pointed out through the appeal that the injuries suffered in the accident included amputation of the thumb of the right hand besides fracture of seven of his ribs which disrupted his life making him immobile for about three months. His grievance is that tribunal has not only not considered the appropriate award for consequent loss of income but also failed to give any award under the pecuniary heads of loss of amenities, pain & suffering, future expenses etc. In fact, this Court notices that the consequent disability factor on account of amputation of the thumb of a hand also should have been considered but such aspect has not received due attention of the tribunal.

4. It must be observed here that the reasoning set out in the impugned judgment is very cryptic, an approach which cannot be countenanced. This may be demonstrated by extracting the relevant portion of the judgment as under:-

“Compensation in suit no. 523/2008

Claimant Phool Singh also tendered his affidavit Ex.PW-1/A. He proved on record medical bills as Ex.PW1/C (colly) and photographs are Ex.PW1/D-1 and D-2. There is no challenge to his testimony except the suggestion that bills are false and fabricated. In his affidavit he deposed that he suffered multiple injury all over his body. He deposed that his normal life remained impaired for about six years. He also deposed that he was earning Rs. 4000/- pm and sustained monetary loss of earning Rs. 3 lacs but there is no documentary proof. He only proved medical bills Ex. PW1/C (colly) which amount to Rs. 8890/- rounded off to Rs. 10,000/-. Counsel for claimant states that he spent Rs. 10,000/- on conveyance. He must have spent some amount on conveyance during his treatment. I award him Rs. 3,000/- on account of conveyance. Total compensation comes to Rs. 13000/- along with interest @ 9% per annum from the date of petition till payment.”

5. The appeal was admitted by order dated 20.12.2010. When it is taken up for hearing, there is no appearance for the appellant/claimant.

6. In the foregoing facts and circumstances, the impugned judgment is set aside. The claim case of the appellant is remitted to the tribunal for appropriate inquiry and effective adjudication. The tribunal is reminded of its obligation in law to grant just compensation.

7. The tribunal shall take up the case for further proceedings on 26th October, 2017. Before proceeding further, it must issue notice to the secure the presence of parties. Needless to add, the amount of compensation determined by the previous judgment (which has been set aside), if already paid by the tribunal shall be liable to be adjusted against the award that may be passed by the tribunal.

8. The appeal is disposed of in above terms.

SEPTEMBER 21, 2017
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R.K.GAUBA, J.