

\$~R-95A

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

Decided on: 4th August, 2017

+ MAC.APP.439/2009

ZABUN NISA

..... Appellant

Through: Mr. Navneet Goyal, Advocate

Versus

MOHD. AFZAL & ORS.

..... Respondents

Through: Mr. Kanwal Chaudhary,
Advocate for R-3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant had suffered injuries in a motor vehicular accident that occurred on 25.02.2006, due to rash driving of truck bearing registration No.JK-02U-5565 and was rendered permanently disabled, her disability having been asessed to the extent of fifty percent (50%). On her accident claim petition (Petition No.94/2008), instituted on 03.06.2006, the Motor Accident Claims Tribunal (the tribunal), by its judgment dated 08.07.2008, awarded compensation in the total sum of Rs.9,01,000/- and directed the insurance company (third respondent) to pay, it being held liable to indemnify owner of the vehicle which was involved. The said amount included Rs.4,68,000/- towards loss of future income due to disability, it having been calculated on the multiplier of '13' against the notional income of Rs.3,000/- per month, the other heads of damages covered by the

award including pain and suffering, loss of amenities of life for which Rs.50,000/- and Rs.25,000/- respectively were added.

2. The insurer sought review by application (M-29/2008) under Section 114 of the Code of Civil Procedure, 1908 (CPC) pointing out that in the calculation of the loss of future income, the tribunal had fallen into error by assuming the disability to be one hundred per cent (100%). The tribunal upheld the said contention and, by order dated 25.04.2009, modified the award by reducing the compensation towards loss of future income to fifty per cent (50%) of what was awarded making it Rs.2,34,000/- under the head of loss of future income.

3. The appeal seeking enhancement of the compensation is pressed at the hearing only to seek enhancement of compensation under the heads of pain and suffering and loss of amenities of life as also with the grievance that the rate of interest levied is inadequate.

4. The compensation awarded by the tribunal had already been paid.

5. Having regard to the disability and its extent suffered, it being on account of degloving injury on the left lower limb requiring prolonged treatment, including skin grafting through several surgical procedure and the effect such injuries would have on the quality of life in future, a case is made out for enhanced compensation under the heads of pain and suffering and loss of amenities of life. The said amounts are increased to Rs.75,000/- each. This would mean that

there would be net increase in the compensation in the sum of Rs.75,000/- only.

6. The said enhanced portion shall be payable with interest @ 9% per annum in favour of the appellant by requisite deposit to be made by the insurance company (the third respondent) with the tribunal within thirty days.

7. The appeal is allowed in above terms.

AUGUST 04, 2017

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R.K.GAUBA, J.



नित्यमेव जयते