

\$~R-246

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

Decided on: 21st September, 2017

+ **MAC APPEAL No. 642/2010**

VINITA

..... Appellant

Through: Mr. Pavan Kumar for Mr. A.K.
Soni, Adv.

versus

PRADEEP KUMAR & ORS.

..... Respondents

Through: Mr. Pankaj Seth, Adv. for R-4.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant was riding on the pillion of motorcycle bearing registration no. DL 7S AK 4409 driven by Shahi Ahmed Kureshi on 07.05.2006, when it came to be involved in a motor vehicular accident that occurred due to negligent driving of Indica car bearing registration no. DL 1YA 3960, admittedly insured against third party risk with fourth respondent (insurer) for the period in question. She, the motorcycle rider and one other (Shabnam Akhtar), also on the pillion, suffered injuries, each filing their respective accident claims, the petition presented by the appellant having been registered as suit no. 152/2007. The tribunal held inquiry and, by judgment dated 19.05.2010, accepted the case for compensation in the three cases on the basis of finding that the driver of the Indica car was negligent. In

the case of the appellant herein, the award was made in the total sum of Rs. 1,45,000/-, it having been calculated thus:-

S.No.	Heads	Compensation
1.	Medicines and Medical treatment	Rs. 45,000/-
2.	Future treatment	Rs. 10,000/-
3.	Loss of wages	Rs. 30,000/-
4.	Pain & Suffering	Rs. 35,000/-
5.	Conveyance & special diet	Rs. 25,000/-
	Total	Rs.1,45,000/-

2. The appellant feeling aggrieved with the award, has come with the present appeal. At the hearing, it is pointed out that the appellant had to undergo prolonged treatment involving surgical procedures for more than eight months, such treatment including implants having been used. It is also pointed out that due to the fractures in the right leg and right foot she has been rendered permanently disabled, her disability having been confirmed by board of doctors of Lal Bahadur Shastri Hospital of the Govt. of NCT of Delhi vide disability certificate (Ex.PW-1/10) to be to the extent of 58% in relation to the right lower limb. Noticeably, the tribunal did not even consider the said disability factor or the consequent loss of earnings in future.

3. The award in the case of the appellant is, thus, found to be perverse which cannot be sustained. The claim case of the appellant is remanded to the tribunal for further inquiry and fresh adjudication.

The tribunal is reminded of its duty in law to ensure that the claimant is granted just compensation.

4. The parties shall appear before the tribunal for further proceedings on 27th October, 2017. The amount of compensation, if already paid to the appellant in terms of the judgment which has been set aside, shall be liable to be adjusted.

5. The appeal is disposed of in above terms.

SEPTEMBER 21, 2017

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R.K.GAUBA, J.

