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

Decided on: 2nd November, 2017

+ **MAC APPEAL No. 839/2011**

RAM NIWAS TYAGI Appellant
Through: Mr. Navneet Goyal, Adv.

versus

SURJEET SINGH & ORS. Respondents
Through: Mr. Pankaj Gupta for Ms.
Suman Bagga, Adv. for R-3.

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

JUDGMENT (ORAL)

1. The appellant was the claimant before the Tribunal in accident claim case (MACP 18/2008) instituted on 18.11.2008 seeking compensation for injuries suffered in a motor vehicular accident that occurred on 13.04.2008 due to negligent driving of motor vehicle described as Crane bearing registration HR 38N 2217, admittedly insured against third party risk with the third respondent (insurer). The tribunal held inquiry and, by judgment dated 18.05.2011, accepted the case for compensation holding the crane driver (first respondent) negligent. The tribunal awarded Rs. 1,20,000/- as total compensation, this inclusive of Rs.70,000/- under the head of expenses, treatment, hospitalization and Rs. 50,000/- as composite damages for pain &

suffering & trauma as a consequence to the injuries. The liability was fastened on the third respondent to pay the said amount with interest though it was granted recovery rights against the first and second respondent, i.e. the driver and owner of the motor vehicle in question, for the reason there was no proof of the driver holding any valid driving licence, such respondents have suffered the case *ex-parte*..

2. By the appeal at hand, the claimant presses for enhancement of compensation restricting it to the prayer for award under the head of loss of amenities of life, referring to the fact that he has been rendered permanently disabled in the right ankle, such disability having been proved (Ex.PW-1/98) to the extent of 18% in relation to that part of the body.

3. The first and second respondents though served have not appeared when the appeal is taken up for hearing. The matter has been considered with the assistance of the counsel for the appellant and the counsel for the insurer.

4. The claimant was 67 years old on the date the accident occurred. The injury and consequent disability in the right ankle would undoubtedly affect the quality of his remaining life. In these circumstances, Rs. 25,000/- is added to the award under the head of loss of amenities of life. The said amount shall carry interest as levied by the tribunal.

5. The insurer is directed to satisfy the enhanced award by requisite deposit with the tribunal within thirty days making it

available to be released to the claimant. The recovery rights granted by the tribunal shall remain unaffected.

6. The appeal is disposed of in above terms.

R.K.GAUBA, J.

NOVEMBER 02, 2017

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