

\$~R-592

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

Decided on: 29th November, 2017

+ **MAC APPEAL 976/2012**

DEEPA NEBB

..... Appellant

Through: Ms. Anjana Prabhakar,
Advocate

versus

KULDEEP SINGH & ORS.

.... Respondents

Through: Mr. A.K. Soni, Adv. for R-4

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant was the claimant before the Motor Accident Claims Tribunal in accident claim case (MACT 23/11/05), filed on 09.09.2005, whereby she sought compensation under Sections 166 and 140 of the Motor Vehicles Act, 1988, for the injuries and the consequent disability suffered by her, due to a motor vehicular accident that had occurred on 03.05.2005, on account of negligent driving of a motor vehicle bearing registration no.HR-55BT-7896, admittedly insured against third party risk with the fourth respondent (insurer).

2. The Motor Accident Claims Tribunal (Tribunal), by judgment dated 22.05.2012, awarded compensation in the total sum of Rs.1,13,980/- and directed the insurer to pay the same with interest at

the rate of 9% p.a., the said amount having been calculated by including loss of wages, special diet, conveyance, physiotherapy charges, nursing assistance, follow-up treatment and damage to the car.

3. The claimant has felt aggrieved with the compensation awarded, her prime contention being that there has been no assessment made of the functional disability arising out of the condition of panic disorder with agoraphobia to which she has been reduced due to the injuries suffered in the accident.

4. After some hearing, the counsel for the appellant fairly conceded that better expert opinion on the medical condition (psychological) on which the claimant relies was required over and above the opinion given by Dr. Raman Girotra (PW-2), a private consultant (psychiatrist). She, thus, submitted that instead of the appeal being decided on the available evidence adduced during the inquiry before the tribunal, the claim case may be remitted to the tribunal for further inquiry wherein such better evaluation could be solicited, if possible, by a board of doctors to be constituted under directions of the tribunal and by production of medical records relating to the treatment of the claimant. The counsel for the insurer on being asked submits that he leaves the matter to the discretion of the court.

5. It may be added here that the record shows that the husband of the claimant is a former Air Force Officer and consequent to the privileges available to her, she has been availing medical treatment from military hospitals / base hospital. If considered proper by the tribunal, the services of such facility may also be availed.

6. In the foregoing facts and circumstances, the request made by the appellant seems to be just and proper. The appeal is allowed. The impugned judgment to the extent compensation was thereby determined and awarded is set aside. The claim case is remitted to the tribunal for fresh adjudication of the amount of compensation payable and, for such purposes, the tribunal shall not only give additional opportunity to the claimant to lead further evidence but also arrange for proper evaluation of her condition by a board of doctors in appropriate government facility.

7. Needless to add, given the old pendency of the claim case, the tribunal shall show necessary expedition to have a fresh determination at an early date.

8. The amount already received by the claimant will be liable to be adjusted against the award that is now expected to be passed by the tribunal through its fresh judgment.

9. The parties are directed to appear before the tribunal on 20.02.2018.

10. The appeal is disposed of in above terms.

R.K.GAUBA, J.

NOVEMBER 29, 2017

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