$~R-583

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 28th November, 2017

\+ MAC.APP. 935/2012 and CM APPL.15065/2012 (stay)

RELIANCE GENERAL INSURANCE CO. LTD.

...... Appellant

Through: Mr. Arun Yadav, Advocate

Versus

MASTER RAJESH & ORS. ..... Respondents

Through: Mr. Navneet Goyal, Advocate

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

JUDGMENT (ORAL)

1. While awarding compensation by judgment dated 17.07.2012, in accident claim case (MACT No.1125/10/09), in favour of the first respondent (claimant), for the injuries suffered by him in a motor vehicular accident that occurred on 02.02.2009, rendering him permanently disabled, his functional disability having been assessed to the extent of fifty five per cent (55%), the tribunal awarded Rs. 17,28,800/- as compensation and added the element of interest @ 12% per annum, as the liability on the appellant (insurer), it admittedly having insured the offending vehicle against third party risk for the period in question, this besides Rs.25,000/- towards lawyer's fee and Rs.5100/- towards out of pocket expenses.

2. The appeal at hand is pressed only on the question of rate of interest and against levy of lawyer's fee and out of pocket expenses.

3. Following the consistent view taken by this Court, the rate of interest is reduced to 9% (nine per cent) per annum from the date of filing of the petition till realization. [see judgment dated 22.02.2016 in MAC.APP. 165/2011 *Oriental Insurance Co Ltd v. Sangeeta Devi & Ors*.].

4. There being no justification for such inclusion, the directions in the impugned award for payment of lawyer's fee and out of pocket expenses are set aside.

5. The award is modified accordingly.

6. By order dated 27.08.2012, the insurance company had been directed to deposit sixty per cent (60%) of the awarded amount (excluding counsel fee and out of pocket expenses) with proportionate interest with UCO Bank, Delhi High Court Branch. It seems there have been no directions for release of such amount. The amount shall be paid by the registry to the claimant in terms of the impugned award after recalculation of the liability of the insurer keeping in view the modification in the rate of interest. For the balance, claimant is at liberty to approach the tribunal with appropriation applications.

7. The statutory deposit shall be refunded to the appellant.

8. The appeal along with pending application stands disposed of in above terms.

R.K.GAUBA, J.

NOVEMBER 28, 2017
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