

\$~R-600 & 601

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 30th November, 2017

+ MAC. APPEAL No. 997/2012

MOHD KHALID

..... Appellant

Through: Mr. N.K. Jha, Advocate.

versus

DHARAMVEER & ORS

..... Respondents

Through: Mr. Pankaj Seth, Advocate for
R-3.

+ MAC. APPEAL No. 998/2012

AFSAR ALI

..... Appellant

Through: Mr. N.K. Jha, Advocate.

versus

DHARAMVEER & ORS

..... Respondents

Through: Mr. Pankaj Seth, Advocate for
R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The awards on the accident claim cases (MACT case Nos. 153/12/09 and 154/12/09) of the two appellants herein, both instituted on 24.10.2009, seeking compensation for injuries and permanent disability suffered in motor vehicular accident that occurred on

21.03.2009, are found to be *prima facie* perverse and deficient for the reason that the Tribunal having noted at one stage (paras 24 and 25) of the impugned judgment dated 31.05.2012, that they had been rendered permanently disabled, duly certified by medical authorities, there was no consideration of the element of functional disability so as to include any amount of damages under the head of loss of income in future due to such disability. The appeals are pressed by the appellants (claimants) only to seek compensation under the said head i.e. loss of income in future due to functional disability.

2. In the given facts and circumstances, it is deemed proper that the Tribunal is called upon to pass an appropriate judgment in the matters by considering such element.

3. Therefore, these appeals are allowed. The impugned judgment to the extent compensation was thereby determined is set aside. The matter is remanded to the Tribunal for further consideration and adjudication.

4. The parties are directed to appear before the Tribunal on 05.02.2018. Needless to add, the amounts already received in terms of the impugned judgment shall be liable to be adjusted against the fresh awards that will be passed. This will not affect the recovery rights already granted to the insurer.

5. The appeals stand disposed of in above terms.

R.K.GAUBA, J.

NOVEMBER 30, 2017

srb