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

Decided on: 1st August, 2017

+ **MAC APPEAL No. 435/2008**

ANIL KUMAR ANAND Appellant
Through: **Ms. Neha Garg, Adv.**

versus

SUNE PAL & ORS. Respondents
Through: **Mr. Pradeep Gaur, Adv. for R-3.**

+ **MAC APPEAL No. 436/2008**

ARUN ANAND Appellant
Through: **Ms. Neha Garg, Adv.**

versus

SUNE PAL & ORS. Respondents
Through: **Mr. Pradeep Gaur, Adv. for R-3.**

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. These two appeals arise out of common judgment of the motor accident claims tribunal rendered on 11.07.2007 on two separate but connected claim cases, they being suit nos. 646-47/1998. The appellant Arun Anand (MAC Appeal no. 436/2008) is wife of the other appellant Anil Kumar Anand (MAC appeal no. 435/2008). Both of them were moving on a two wheeler scooter bearing no. HR 29E

6105 (the scooter), driven by the latter with the former sitting on the pillion, on 12.08.1997, moving from their residence in Faridabad to Ashram Chowk in Delhi. The scooter had reached near Saini Nursery close to Central Road Research Institute (CRRI) at Mathura Road where it was hit from behind by bus bearing registration no. DL 1P 1856, the said bus being insured against third party risk for the period in question with the third respondent (insurer). In each of the two claim cases, the driver, owner and insurer of the bus were impleaded as parties with the pleadings that the accident had occurred due to negligent driving of the bus.

2. The tribunal, after inquiry, upheld the above-said contention, finding a case made out for compensation to be awarded on the principle of fault liability. The said finding has attained finality as it was not challenged by any of the respondents.

3. In the accident, both the appellants had suffered injuries. The tribunal awarded Rs. 62,518/- as compensation in favour of Anil Kumar Anand and Rs. 19,440/- as compensation in favour of Arun Anand. Noticeably, the compensation in the two cases included Rs. 20,000/- and 10,000/- respectively towards pain & suffering and mental agony.

4. These appeals were filed seeking enhancement and at the hearing they are pressed on the sole contention that the non-pecuniary damages in the sum of Rs. 20,000/- and Rs. 10,000/- respectively towards pain & suffering and mental agony were inadequate.

5. It is noted that Anil Kumar Anand, who was over 41 years and employee of Punjab National Bank, had suffered multiple, grievous

injuries and remained hospitalized for prolonged period and underwent surgical procedures. Though it is clear from the record that the injuries have not resulted in any permanent disability, the nature of injuries and the prolonged medical treatment itself would justify increase in the award on account of pain & suffering to Rs. 50,000/-. There would, thus, be an increase of Rs. 30,000/- in compensation in his case.

6. The other claimant Arun Anand, then 40 years, was an employee in Delhi University. She had also suffered multiple injuries, though all of them were simple in nature. Having regard to these facts, and the period of treatment and consequent inability to attend duty for a period of one month, the non-pecuniary damages on account of pain & suffering and mental agony are increased to Rs. 20,000/-. As such there would be net increase of Rs.10,000/- in her case.

7. Needless to add, each enhanced portion of the award shall carry interest as levied by the tribunal. The insurance is directed to satisfy the award by requisite deposits with the tribunal within 30 days.

8. Both appeals are disposed of in above terms.

R.K.GAUBA, J.

AUGUST 01,2017

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