

\$~R-430

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 7th November, 2017

+ MAC.APP. 1107/2011

BABY SAKSHI GREOLA Appellant

Through: Ms. Aruna Mehta, Adv.

Versus

MANZOOR AHMAD SIMON & ANR. Respondents

Through: Mr. Pankaj Gupta, Adv. for
insurance company.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant was a seven year old child when she suffered injuries in a motor vehicular accident that occurred on 02.06.2009 due to negligent driving of motor vehicle described Tata Safari Car bearing registration no. DL 3C AX 4502. Accident claim case (suit no. 333/09) was instituted by her natural guardian on her behalf on 03.09.2009, impleading the driver-cum-owner of the car (first respondent), and its insurer (the second respondent), as parties. The tribunal held inquiry and, by judgment dated 13.06.2011, held the driver-cum-owner of the car guilty of negligence, it resulting in injuries being sustained by the claimant rendering her permanently disabled to the extent of 75% in relation to the whole body. It may be added here that the injuries suffered included those in the head region.

The disability has been certified (Ex.PW-3/A) by a board of doctors of Lok Nayak Hospital on 10.01.2011 to be also on account of moderate mental retardation consequent upon the head injury. The tribunal awarded compensation in the sum of Rs. 5,90,750/- and has directed the insurer to pay the same with interest @ 7.5 % per annum.

2. The appeal is pressed seeking enhancement raising grievance that the awards under non-pecuniary heads of damages of pain & sufferings and loss of amenities of life are inadequate and also for the reason there is no award under the head of loss of marriage prospects. It is further submitted that the tribunal should have considered the need for providing services of an attendant which would be necessary for remainder of the life on account of mental retardation and, therefore, the amount of Rs. 15,000/- is meagre. The appellant also submits that the rate of interest levied is on the lower side.

3. Having regard to the nature of injuries and the aftermath suffered, the submissions of the claimant deserve to be accepted. The amount of Rs. 50,000/- towards pain & suffering is increased to Rs. 1,00,000/-. So total increase under this head is [Rs.1,00,000/- (-) Rs.50,000/-] Rs.50,000/- An amount of Rs. 1,00,000/- is added towards loss of marriage prospects. Given the condition to which the claimant has been reduced, she would require services of an attendant, though part time. Therefore, adopting the minimum wages of unskilled worker (Rs. 3934), for a part time attendant, on the multiplier of 18, the attendant charges are computed as $(3934 \div 2 \times 12 \times 18)$ Rs. 4,24,872/-, rounded off to Rs. 4,25,000/-. Since the tribunal

had awarded only Rs. 15,000/- under this head, it would result in increase under this head by (4,25,000 – 15,000) Rs. 4,10,000/-.

4. The award, thus, is enhanced by (50,000 + 1,00,000 + 4,10,000) Rs. 5,60,000/-. The total award is consequently increased to (5,90,750 + 5,60,000) Rs. 11,50,750/-, rounded off to Rs. 11,51,000/- (Rupees Eleven lakhs fifty one thousand only).

5. Following the consistent view taken by this Court, the rate of interest is increased to 9% per annum (nine percent) 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.*]

6. The insurer is directed to satisfy the enhanced portion of the award. The award including on account of increase in the rate of interest shall be released to the claimant/appellant in the form of interest bearing fixed deposit receipt taken out from a nationalized bank for a period of ten years with provision of auto renewal and right to draw periodic interest.

7. The appeal is disposed of in above terms.

R.K.GAUBA, J.

NOVEMBER 07, 2017

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