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

Decided on: 13th July, 2017

+ **MAC APPEAL 590/2008**

RAJ MANGAL YADAV Appellant
Through: **Mr. M.A. Khan, Advocate**

versus

ABHISHEK MITTAL & ORS. Respondents
Through: **Mr. Pankaj Seth, Adv. for R-3**

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

JUDGMENT (ORAL)

1. The appellant had suffered injuries in a motor vehicular accident that occurred on 23.07.2005. On his claim petition (suit no.190/2008), the Motor Accident Claims Tribunal (Tribunal) awarded compensation in his favour directing the third respondent herein (insurer) to pay since the offending vehicle (a Honda City car bearing no.DL-7CF-0736) was insured against third party risk with it. The compensation was computed as under :-

Medical Treatment	Rs.35,000/-
Conveyance	Rs.15,000/-
Special Diet	Rs.7,500/-
Loss of Income	Rs.70,000/-
Loss of Earning Capacity	Rs.3,65,000/-
Loss of Amenities of Life	Rs.35,000/-
Attendant Charges	Rs.10,000/-
Pain and Agony	Rs.35,000/-
Total	Rs.5,72,500/-

2. The appeal at hand seeking enhancement of compensation is pressed only on two counts. It is argued that the loss of income calculated for ten months was deficient as the treatment of the claimant requiring four surgeries was spread over two years, the plea being that loss of income should have been calculated for 24 months. The other contention is that the award of Rs.35,000/- on account of pain and agony is deficient.

3. Given the nature of injuries suffered and the prolonged treatment undergone, the contentions on both above-noted counts must be accepted.

4. The appellant had suffered multiple fractures they being in right leg, right arm and head. He was operated four times including once for fixing the fractured bones, second time for surgical procedure on the knee resulting in implant, third time for removal of the implant and finally for nailing and bone-grafting. Given the prolonged period of treatment, the loss of income is recalculated as (Rs.7,000/- x 24) Rs. 1,68,000/- instead of Rs.70,000/-.

5. In the facts and circumstances noted above, award on account of pain and agony is increased to Rs.1 Lakh (Rupees one lakh) instead of Rs.35,000/-.

6. Thus, there would be a net increase of Rs.1,63,000/-. Ordered accordingly. Needless to add, it shall carry interest as levied by the Tribunal.

7. The insurance company shall pay by depositing the enhanced amount of compensation with the Tribunal within thirty days of today whereupon the same shall be released.
8. The appeal is disposed of in above terms.

JULY 13, 2017

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R.K.GAUBA, J.

