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

Decided on: 06th November, 2017

+ **MAC APPEAL 951/2011**

KANWAR PAL

..... Appellant

Through: Mr. Peeush Sharma, Mr.
Kartikey Nayyar and Mr.
Sahurya Mitra Tomar,

versus

**RELIANCE GENERAL INSURANCE PVT.
LTD. AND ORS.**

..... Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The present appeal was filed by the claimant at whose instance accident claim case (MACT 1085/2010) was instituted on 19.07.2008. The Motor Accident Claims Tribunal (Tribunal) by judgment dated 21.07.2011, *inter alia*, held that he had made out a case for compensation to be awarded under Section 166 of the Motor Vehicles Act, 1988 against the respondents, he having suffered injuries in the motor vehicular accident that had occurred on 23.03.2008 when the motorcycle bearing registration no.UP-11G-0439, on which he was riding, was hit by Maruti Wagon-R car bearing registration no.HR-06L-5577. The tribunal held the second respondent (driver of the said

car) to have been negligent and, thus, held him to be the principal *tort-feasor* also holding the third respondent Rajeev Garg and Company (registered owner of the car), vicariously liable on such account. The responsibility to pay the compensation, which was determined in the sum of Rs.3,69,000/-, however, was fastened on the first respondent, it admittedly being the insurer against third party risk in respect of the vehicle in question there being no issue of violation of the terms and conditions of such insurance policy.

2. The claimant is dis-satisfied with the award granted by the tribunal for the reasons, the tribunal has failed to take into account the loss of income during the period of treatment or to make any award towards loss of future income post-retirement from the present government job, on account of permanent disability suffered or to cover appropriately the costs of future treatment.

3. After some hearing, the learned counsel for the appellant conceded that for aforesaid purposes, some further evidence was required to be adduced. In this view, he submitted that he may be given permission to withdraw the present appeal and, instead, approach the tribunal by way of review petition so that proper evidence in entirety, so as to cover all requisite heads of compensation, may be brought before the tribunal for just compensation to be awarded.

4. In the given facts and circumstances where the judgment of the tribunal appears to be not taking care of certain heads of damages particularly on the issue of loss of income during the course of treatment and the loss of income due to the disability suffered in

future, as indeed cost of future treatment in the light of advice for hip replacement, the appeal is dismissed as withdrawn, as requested, with liberty to move the tribunal with appropriate application for review granted.

Dasti.

R.K.GAUBA, J.

NOVEMBER 06, 2017

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