

\$~R-689

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

Decided on: 11th December, 2017

+ **MAC APPEAL 1272/2012**

RUDRA BAHADUR

..... Appellant

Through: Mr. Sanjeev Srivastava, Advocate

versus

M/S NATIONAL INSURANCE COMPANY LTD.

& ORS.

..... Respondents

Through: Mr. G. Kabir, Adv. for R-1

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. On the accident claim case (suit no.52/2010), instituted by the appellant (claimant), on 23.04.2008, the Motor Accident Claims Tribunal (Tribunal), by its judgment dated 21.05.2011, awarded compensation in the total sum of Rs.57,700/-, directing the first respondent (insurer) to pay the same with interest at the rate of 7.5% p.a. for injuries suffered by him in a motor vehicular accident that had occurred on 16.12.2007 involving negligent driving of a motorcycle bearing registration no.DL-9ST-5726 admittedly insured with it for the period in question covering third party risk. The tribunal calculated the compensation thus :-

Medicines and Medical treatment	Rs.7,700/-
Pain and suffering loss of amenities of life	Rs.25,000/-

Conveyance and special diet	Rs.10,000/-
Loss of income	Rs.15,000/-
Total	Rs.57,700/-

2. During the course of hearing on the appeal at hand, seeking enhancement of compensation, the appellant was granted liberty to lead additional evidence. He examined Jagmal Singh Yadav (AW-1), Sr. Manager, HR (Admn.) Ansun Zippar Pvt. Ltd., where the claimant was employed during the relevant period and Digamber Singh (AW-2), Senior Executive, Medical Record Department, Mool Chand Hospital, Delhi.

3. The learned counsel on both sides have been heard and record perused.

4. The evidence of AW-1 clearly proved that the claimant had remained on leave of absence from duty from his employer's office due to the injuries suffered for a period of about 18 months. Thus, the compensation for loss of income for three months is inadequate, it requiring enhancement by compensation for additional period of leave for 15 months, which would be in the sum of (Rs.5,000/- x 15) Rs.75,000/-.

5. Similarly, AW-2 had proved without any contest that the treatment from Mool Chand Hospital in May 2010 had resulted in medical expenditure in the sum of Rs.83,658/-. It needs to be added to the compensation.

6. The total compensation is increased to [Rs.57,700/- + Rs.75,000/- + Rs.83,658/-] Rs.2,16,358/-, rounded off to Rs.2,17,000/-

(Rupees Two lakh and seventeen thousand only). The award is enhanced accordingly.

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

8. The first respondent (insurer) is directed to satisfy the enhanced award by requisite deposit with the tribunal within 30 days, making it available to be released to the claimant. The amount shall be released to the claimant in the form of interest bearing fixed deposit receipt taken out from a nationalized bank for a period of five years with right to draw periodic interest.

9. The appeal is disposed of in above terms.

DECEMBER 11, 2017

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R.K.GAUBA, J.