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

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Date of Decision: 24th July, 2017

+ MAC.APP.341/2015 & CM 6514/2015

THE NEW INDIA ASSURANCE COMPANY LTD..... Appellant

Through: Mr. J.P.N. Shahi, Advocate

versus

MOHD. SHERAN & ORS.

..... Respondents

Through: Mr.R.K. Bachchan, Advocate

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.14,94,821/- to the respondent. The appellant is seeking reduction of the award amount.
2. On 1st April, 2011 at about 7:15 A.M., respondent no.1 was going from Bhajanpura to Gokal Puri side on his motor cycle No. DL 6 SAC 6953. When respondent no.1 reached in front of C-Block, Yamuna Vihar, Wazirabad road, he was hit by a RTV bearing No.DL 1VA 3008 which resulted in grievous injuries. Respondent no.1 was taken to G.T.B. Hospital. Respondent no.1 suffered 50% disability relating to the whole body.
3. The Claims Tribunal awarded Rs.80,000/- towards pain and suffering, Rs.1 lakh towards loss of marital prospects, Rs.40,000/- towards shortening of life span etc., Rs.51,376/- towards loss of income, Rs.10,40,364/- towards loss of future income due to permanent disability, Rs.35,000/- towards salary of attendant, Rs.10,000/- towards special diet, Rs.2,000/- towards

conveyance and Rs.1,36,081/- towards medical bills. The total compensation awarded by Claims Tribunal is Rs.14,94,821/-.

4. Learned counsel for the appellant urged at the time of hearing that the functional disability and loss of earning capacity of respondent no.1 be taken as 25% whereas learned counsel for respondent no.1 urged at the time of the hearing that the functional disability of respondent no.1 be taken as 100%. Respondent no.1 seeks enhancement of compensation award under the heads of pain and suffering, special diet, future treatment as well as loss of income during treatment.

5. Respondent no.1 is present in Court and his present condition has been seen. Considering the present condition of respondent no.1, the functional disability of 50% taken by the Claims Tribunal is upheld. The compensation of Rs.14,94,821/- awarded by the Claims Tribunal to respondent no.1 under the various heads is just, fair and reasonable and does not warrant any interference.

6. The appeal is dismissed. Pending application is disposed of.

7. The appellant has deposited Rs.19,22,381/- with the Claims Tribunal out of which Rs.5 lakh has been released to respondent no.1 in terms of the order dated 13th April, 2015 and the balance amount is lying in fixed deposit.

8. The Claims Tribunal is directed to disburse the balance award amount to respondent no.1 by instructing the concerned bank to discharge the FDR and keep Rs.12,72,000/- in 120 FDRs of Rs.10,600/- in the name of respondent No.1 each for the period 1 month to 120 months respectively with cumulative interest.

9. The balance amount, after keeping Rs.12,72,000/- in FDRs, be released to respondent no.1 by transferring the same to his savings bank

account no.20780110076569 with UCO Bank, Karkardooma Court Branch (IFSC UCBA0002078, MICR Code: 110028065).

10. The maturity amount of the FDRs be transferred to the savings bank account of respondent no.1 near the place of his residence. Respondent no.1 shall open a savings bank account near the place of his residence within a period of four weeks and shall furnish the particulars thereof to UCO Bank, Karkardooma Court Branch. Respondent no.1 shall produce the copy of this order before the concerned bank at the time of the opening of the account and the concerned bank shall not issue any debit card or cheque book and shall make an endorsement to this effect on the passbook.

11. All the original FDRs shall be retained by UCO Bank, Karkardooma Court Branch. However, the statement containing FDR number, FDR amount, date of maturity and the maturity amount be furnished to respondent no.1.

12. No loan, advance or pre-mature discharge shall be permitted without the permission of this Court.

13. List for reporting compliance on 8th September, 2017.

14. Respondent no.1 shall produce the passbook of his savings bank account near the place of his residence on the next date of hearing.

15. The statutory amount be refunded back to the appellant.

16. Copy of this judgment be given *dasti* to counsel for the parties under the signature of the Court Master.

JULY 24, 2017/dk

J.R. MIDHA, J.