$~R-651

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 6th December, 2017

\+ **MAC.APP. 1172/2012**

NEW INDIA ASSURANCE CO. LTD. ..... Appellant
Through: Mr. Navdeep Singh with Mr. D.D. Singh, Advocates.

Versus

SUNIL SAHANI & ANR. ..... Respondents
Through: None.

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

JUDGMENT (ORAL)

1. The accident claim case (Petition No. 490/09), instituted on 10.10.2006, by the first respondent (the claimant) before the Motor Accident Claims Tribunal was decided by judgment dated 28.07.2012 whereby compensation in the total sum of Rs.6,01,400/- was awarded, the liability having been fastened on the appellant (insurer), it having issued an insurance policy covering the third party risk in respect of the vehicle in question bearing registration No. DL-1LF-4347.

2. The claim case was filed under Section 163-A of Motor Vehicles Act, 1988 for injuries sustained and the permanent disability consequently suffered. The Tribunal awarded the aforesaid amount of compensation, it being inclusive of Rs.1,00,000/- each under the heads

of pain and sufferings and loss of amenities and disfigurement. The appeal by the insurance is pressed only to take exception to such general damages included in the award.

3. The appeal was put in the list of "Regulars" by order dated 10.02.2016 to come up on its own turn. When it is called out for hearing, there is no appearance on behalf of the claimant.

4. Since the claim was under Section 163-A of the Motor Vehicles Act, 1988, the general damages will have to be restricted to the legislative prescription as given in the Second Schedule appended to Motor Vehicles Act, 1988. Thus, the amount of general damages is reduced to Rs.6,000/- only. Therefore, the total compensation in the case comes to (4,01,400 + 6,000) Rs.4,07,400/- rounded off to Rs.4,08,000/- (Rupees Four Lakhs and Eight Thousand Only). Needless to add, it shall carry interest as levied by the Tribunal.

5. By order dated 07.11.2012, the insurance company had been directed to deposit Rs.4,00,000/- along with proportionate interest with the Tribunal. In terms of the said order and the subsequent directions by orders dated 13.12.2013 a total sum of Rs. 2 Lacs out of the said deposited amount was directed to be released to the claimant. Subsequently, by order dated 10.02.2016, the insurer was directed to deposit the balance amount with the tribunal within 30 days and 50% out of the entire deposited amount along with proportionate accrued interest was directed to be released to the claimant after adjusting the amount of Rs. 2 Lacs which had earlier been released. The Tribunal will calculate the balance now payable to the claimant under the modified award and release the same from balance lying in deposit

along with corresponding interest. The excess in deposit, however, if any, shall be refunded. If there is any deficiency, the insurance company will make it good by requisite deposit with the Tribunal within 30 days making it available to be released to the claimant.

6. The statutory amount shall be refunded to the insurance company.

7. The appeal stands disposed of.

R.K.GAUBA, J.

DECEMBER 6, 2017
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