

\$~R-276

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

Decided on: 26th September, 2017

+ **MAC APPEAL No. 840/2010**

SAHABUDDIN

..... Appellant

Through: Nemo.

versus

MAIRAZUDDIN & ORS.

..... Respondents

Through: Mr. Pankaj Seth, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant suffered injuries in a motor vehicular accident that occurred on 13.03.2006 due to negligent driving of Indica car bearing registration No.UP-13-E-0690, which was admittedly insured against third party risk with the third respondent (insurer). As a result of the injuries, his right leg was amputated, this resulting in he becoming a permanently disabled person, the physical impairment having been assessed by the board of doctors of LNJP Hospital, vide disability certificate (Ex.PW-1/7), to be to the extent of eighty per cent (80%). On his accident claim case (Suit No.371/2006), the motor accident claims tribunal, by its judgment dated 08.07.2010, awarded compensation in the total sum of Rs.7,74,596/-, calculating it thus:-

Sl. No.	Head	Amount in (Rs.)
1.	Towards loss of dependency allowance	4,49,655/-
2.	Towards loss of two year salary	88,680/-
3.	Towards medical bills	36,261/-
4.	Towards special diet for all four years and for future years	25,000/-
5.	Towards conveyance allowance for all four years and for future attendant's conveyance	25,000/-
6.	Towards mental pain and agony for all years and disfigure etc., and loss of enjoyment of life	1,50,000/-
	Total	7,74,596/-

2. The liability to pay the said amount of compensation with interest @ 8% per annum has been fastened on the insurer.

3. The present appeal was filed by the appellant/claimant submitting that the award is inadequate.

4. The appeal was put in the list of 'Regulars' as per order dated 11.05.2011. When it is taken up for hearing, there is no appearance on behalf of the claimant/appellant. The matter has been heard with the assistance of the counsel for the insurer.

5. It is noted that in absence of any formal proof, the tribunal went by minimum wages to evaluate the loss of earnings including that in future. It assessed the functional disability at eighty per cent (80%). Against this backdrop, the calculation of compensation under all heads other than that of mental pain and agony, disfigurement and loss of

enjoyment of life is found to be just and proper. However, the composite compensation of Rs.1,50,000/- under the above mentioned heads seems to be inadequate. The award granted under such head is treated as one granted for pain and suffering and, in addition Rs.1,50,000/- is added towards loss of amenities of life.

6. Thus, there shall be a

7. net increase in the award by sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only), which shall carry interest as levied by the tribunal.

8. The insurer is directed to satisfy the enhanced award by requisite deposit with the tribunal within thirty days, making it available to be released to the claimant.

9. The appeal stands disposed of in above terms.

SEPTEMBER 26, 2017

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R.K.GAUBA, J.