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

Decided on: 24th August, 2017

\+ MAC APPEAL No. 582/2009

WAZIR SINGH ..... Appellant

Through: None.

versus

THE NEW INDIA ASSURANCE CO. LTD. & ORS

.... Respondents

Through: Mr. D.K. Sharma, Adv. for R-1.

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

JUDGMENT (ORAL)

MAC APPEAL No. 582/2009

1. The appellant, engaged in the business of tea shop, then aged 43 years, suffered injuries in a motor vehicular accident that occurred on 27.06.2005, due to negligent driving of a three wheeler scooter bearing registration no. HR 693824, which was admittedly insured against third party risk with the first respondent (insurer) for the period in question. He instituted accident claim case (suit no. 126/2007) on 22.09.2005, claiming compensation, pleading that he had been rendered permanently disabled. The tribunal held inquiry

and, by judgment dated 17.09.2008, granted compensation in the sum of Rs. 2,44,500/- with interest in his favour, computing thus:-

(i)	*Medical Treatment*	*: Rs. 1,00,000/-*
(ii)	*Conveyance*	*: Rs. 15,000/-*
(iii)	*Special Diet*	*: Rs. 10,000/-*
(iv)	*Loss of Income*	*: Rs. 49,500/-*
(v)	*Pain & Agony*	*: Rs. 30,000/-*
(vi)	*Loss of Amenities of Life*	*: Rs. 5,000/-*
(vii)	*Attendant Charges*	*: Rs. 9,000/-*
(viii)	*Loss of Earning Capacity*	*: Rs. 26,000/-*
	Total	***: Rs. 2,44,500/-***

2. The liability was fastened on the insurer. The claimant has come in appeal seeking enhancement, the prayer being resisted by the insurer.

3. For the reason set out in the application, (CM No. 17308/2009), the delay is condoned and the application to that effect allowed.

4. The appeal was directed to be shown in the list of 'regulars' as per order dated 31st May, 2011. When it is taken up for hearing, there is no appearance for the appellant. Arguments of the insurer have been heard and record perused.

5. The contention in the appeal about inadequate compensation on account of loss of income due to disability and under certain heads of damages appears to be correct. While the judgment of the tribunal, based on the evidence of Dr. S.P. Sharma (PW-2) to the effect that the claimant had suffered permanent disability to the extent of 5% of

shortening of left lower limb, does not call for any interference, the calculation of compensation of loss of income on that account being appropriate, there is indeed deficiency in the award under the heads of pain & agony and loss of amenities of life at Rs. 30,000/- and Rs. 5,000/- only.

6. Having regard to the nature of injuries, and the after effect suffered, the said amounts are increased to Rs. 50,000/- each. This would mean there is to be a net increase in the compensation by a sum of Rs. 65,000/-. (Rupees sixty five thousand only).

7. Ordered accordingly.

8. Needless to add, such additional amount shall be payable with interest as levied by the tribunal.

9. The insurance company (first respondent) is directed to deposit the above said enhanced portion of the amount with interest with the tribunal within thirty days, making it available to be released.

10. The appeal is disposed of in above terms.

11. *Dasti.*

R.K.GAUBA, J.

AUGUST 24, 2017
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