$~R-282

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

Decided on: 27th September, 2017

\+ MAC APPEAL NO.876/2010

IFFCO TOKIO GENERAL INSURANCE COMPANY LIMITED ……Appellant

Through: Mr. Pankaj Seth, Advocate

versus

SURAJ PAL & ORS. ..... Respondents

Through: Mr. Navneet Goyal, Advocate for R-1.

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

JUDGMENT (ORAL)

1. The first respondent, then aged 35 years, earning his livelihood as a hawker of bangles, while moving on his bicycle on 13.04.2006, suffered injuries on being hit by a motorcycle bearing registration No.HR-13B-7593 driven in a negligent manner by the third respondent, the said vehicle being registered in the name of the second respondent and insured against third party risk for the period in question with the appellant insurance company.

2. The victim/injured (the first respondent) instituted accident claim case (Petition No.882/2008) on 19.05.2006 seeking compensation, pleading that he had been rendered permanently disabled. The tribunal held inquiry and, by judgment dated

17.02.2010, upheld the said claim and awarded compensation in the total sum of Rs.4,95,600/-, directing the appellant insurer to pay with interest, the said amount having been calculated thus:-

Sl. No.	Head	Amount (in Rs.)
1.	Medical treatment	5,000/-
2.	Special diet/conveyance	7,000/-
3.	Loss of income	13,100/-
4.	Loss of earning capacity	4,00,500/-
5.	Pain and suffering	30,000/-
6.	Loss of amenities of life	40,000/-
	Total compensation	4,95,600/-

3. The insurance company by the appeal at hand presses its contention that the loss of future income due to disability should have been calculated with the multiplier of 12 rather than 17. It is noted that the injuries suffered by the appellant were fractured four vertebra with compressive myelopathy and weakness in both lower limbs, such condition having been certified as disability calculated to be to the extent of 54%. The tribunal took it as a case of functional disability of 40% and made the award towards loss of future earnings on such basis, the monthly loss being Rs.1962.60.

4. Having regard to the fact that the claimant was 35 years' old at the relevant time, the appropriate multiplier should have been 16. But

then, even if the multiplier of 16 were to be applied, the award would be reduced by only Rs.23,551/-. Having regard to the nature of injuries suffered and the consequent aftermath which the claimant would undergo throughout the remainder of his life, this court declines to interfere.

5. The appeal is dismissed.

6. By order dated 22.12.2010, the insurance company had been directed to deposit the awarded amount with interest. By subsequent order dated 31.03.2011, part thereof with interest there against was allowed to be released. The registry shall now release the balance from the amount which was retained in fixed deposit.

7. The statutory deposit shall be refunded.

8. The appeal stands disposed of in above terms.

R.K.GAUBA, J.

SEPTEMBER 27, 2017
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