

\$~R-698

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

Decided on: 12th December, 2017

+ **MAC. APP. 1292/2012**

NARENDERJEET KAUR

..... Appellant

Through: Nemo.

versus

KAMAL ANWAR & ORS.

..... Respondents

Through: Ms. Advocate for Mr. J.P.N. Shahi,
Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant had instituted accident claim case (Suit No.222/10) on 06.09.2007, seeking compensation under Sections 166 and 140 of the Motor Vehicles Act, 1988 for the injuries suffered by her in the motor vehicular accident that had occurred on 31.07.2007, due to negligent driving of motor vehicle described as Ambassador car, bearing registration No.DL-2C-M-3212, proved to have been insured against third party risk for the period in question with the third respondent (insurer). On the basis of evidence led, the tribunal, by judgment dated 26.06.2012, upheld the said claim and awarded compensation in the total sum of Rs.2,69,768/-, fastening the liability to pay on the insurer with interest @ 9% per annum, calculating it thus:-

Sl.No.	Heads	Amount (in Rs.)
1.	Medicines and medical treatment	31,220/-
2.	Pain and suffering loss of amenities of life	50,000/-
3.	Conveyance and special diet	25,000/-
4.	Loss of future income due to permanent disability	1,63,548/-
	Total	2,69,768/-

2. It may be added here that the claimant had relied on disability certificate (Ex.PX1), issued by board of doctors of Dr. Ram Manohar Lohia Hospital, Govt. of NCT of Delhi indicating her permanent physical impairment to be 32% in relation to right lower limb for the reasons of united fractures of femur right, both bones of the right leg having been left with condition of stiff knee, the limb having been shortened by one inch. The tribunal took this condition to be reflective of functional disability to the extent of 25% and granted the compensation inclusive of award on account of loss of future income, accordingly.

3. The appeal was filed seeking enhancement on the ground the said award is deficient.

4. The appeal was put in the list of 'Regulars' to come up on its own turn as per order dated 25.02.2016. When it is called out in its turn, there is no appearance on behalf of the appellant (claimant).

5. The learned counsel for the insurer has been heard and with her assistance record perused.

6. There appears to be no error on the part of the tribunal in evaluating the functional disability. Given the reasons set out in the disability certificate, there is no reason why the disability should have been assessed more than the one found by the tribunal.

7. Indeed, given the condition of the claimant, the composite award of Rs.50,000/- under the heads of pain and suffering and loss of amenities of life is inadequate and in its lieu Rs.75,000/- each are awarded for pain and suffering on one hand and loss of amenities on the other, which would mean a net increase in the award by Rs.1,00,000/-. Ordered accordingly.

8. The award under the other heads of damages being just and adequate, the total compensation is increased to (2,69,768/- + 1,00,000/-) Rs.3,69,768/- rounded off to Rs.3,70,000/- (Rupees Three Lacs Seventy Thousand Only). Needless to add, the enhanced award shall carry interest as levied by the tribunal.

9. The insurer is directed to satisfy the enhanced award by requisite deposit with the tribunal within thirty days.

10. The appeal stands disposed of in above terms.

R.K.GAUBA, J.

DECEMBER 12, 2017/vk