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

Decided on: 21st July, 2017

\+ MAC.APP. 424/2017 and CM 16477/2017

TATA AIG GENERAL INSURANCE CO LTD ..... Appellant

Through: Mr. Rudra Kahlon and Ms Vandana Kahlon, Advocates

versus

SUMIT KUMAR & ORS ..... Respondents

Through: Ms. Manpreet Kaur, Advocate

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

JUDGMENT (ORAL)

1. The first respondent suffered injuries in a motor vehicular accident on 08.07.2014 due to the rash driving of a truck bearing no.HR-46C-1493 which was admittedly insured against third party risk with the appellant / insurance company (insurer) for the period in question. He suffered amputation of right leg below knee.

2. On his claim petition (MACP 183/14), the Motor Accident Claims Tribunal (Tribunal), awarded compensation directing the insurance company to pay, one of the components of the said award being loss of future income calculated on the basis of conclusion that functional disability suffered is 50%, this on the basis of medical

opinion, per disability certificate, indicating the disability being 70% permanent in relation to the part of the body affected.

3. The contention urged in the appeal is that for calculating the loss of future income on this account, 50% of the 70% of the possible earnings should have been computed.

4. The contention defies logic and, therefore, must be rejected. The conclusion that functional disability is 50% controls the calculation and thus, there is no error in the impugned judgment.

5. The appeal is devoid of substance and therefore, dismissed. The pending application also stands dismissed.

6. By order dated 01.05.2017, the appellant had been directed to deposit the amount of compensation with interest, from which 60% was allowed to be released. The balance lying in deposit shall also now be released.

7. The statutory amount, if deposited, shall be refunded.

R.K.GAUBA, J.

JULY 21, 2017
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