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

+ **MAC.APP. 848/2016 & C.M. 38301/2016**

ORIENTAL INSURANCE CO LTD. Appellant

Through: **Mr. R.K. Tripathi, Advocate**

Versus

MEERA GUPTA & ANR. Respondents

Through: **Nemo.**

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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04.01.2017

1. Impugned Award of 11th July, 2016 grants compensation of ₹1,10,000/- to respondent No.1-claimant on account of injuries sustained in a road accident on 11th April, 2009. The facts are already noted in the opening paragraph of the impugned Award and needs no reproduction. Suffice to note that Motor Accident Claims Tribunal had proceeded to Award the compensation while treating the injuries sustained by respondent No.1-claimant as grievous. The compensation granted to respondent No.1-claimant under different heads by Motor Accident Claims Tribunal is as under:-

“(i) Pain & Suffering	Rs.50,000/-
(ii) Loss of enjoyment of life	Rs.50,000/-
(iii) Special Diet	Rs.5,000/-
(iv) Conveyance	<u>Rs.5,000/-</u>
Total	Rs. <u>1,10,000/-</u>”

2. Pertinently, neither appellant-insurer nor driver-owner of the vehicle in question had led any evidence before the Motor Accident Claims Tribunal. Challenge to the impugned Award by learned counsel for appellant-insurer is on the ground that as per MLC, the injuries suffered by respondent No.1-claimant were simple in nature and in the absence of any documentary proof, the compensation which is normally payable in cases of simple injuries ranges between ₹10,000/- to ₹15,000/- and so, grant of compensation of ₹1,10,000/- to respondent No.1-claimant is wholly unjustified and so, impugned Award deserves to be modified.

3. Despite service, none has appeared on behalf of respondents. They are accordingly proceeded *ex parte*.

4. Upon hearing and on perusal of impugned Award and the evidence on record, I find that MLC (*Annexure A-2*) of first respondent-claimant clearly shows that respondent-claimant had received treatment at a private hospital before coming to the government hospital and that the injuries sustained by her have been opined to be of simple nature. First respondent-claimant had asserted in her evidence that injuries sustained by her were grievous and that she had spent a sum of ₹15,000/- on her treatment. No estimate of future medical expenses has been placed on record. There is no evidence on record to show that first respondent-claimant/ injured was confined to bed for any period of time or that she was unable to perform her job i.e. of a Contractor. In the cross-examination, first respondent/claimant had candidly admitted that she has not placed on record any medical bills regarding her treatment or any assessment regarding her future medical treatment.

5. Although first respondent-claimant has claimed in her evidence

that the injuries sustained by her were grievous in nature but in view of MLC (*Annexure A-2*), it becomes evident that injuries sustained by her were simple in nature. Since first respondent-claimant had taken initial treatment from a private hospital, therefore, compensation of ₹15,000/- deserves to be granted to her under the head of '*medical expenses*'. However, respondent-claimant has not asserted in her evidence that she had incurred any additional expense for special diet or conveyance and so, grant of compensation to her under these heads is unjustified. Considering the nature of injuries sustained by first respondent-claimant, this Court finds that grant of compensation of ₹50,000/- under the head of "*Loss of Enjoyment of Life*" and ₹50,000/- under the head "*Pain & Suffering*" is clearly exorbitant and it deserves to be suitably reduced. Accordingly, under the above two heads, first respondent-claimant is held entitled to compensation of ₹10,000/- each.

6. In the light of aforesaid, impugned Award is modified by reducing the quantum of compensation awarded from ₹1,10,000/- to ₹35,000/-. The awarded compensation of ₹35,000/- be released to first respondent-claimant and the excess amount deposited by appellant and statutory deposit made by appellant be refunded to appellant as per rules.

7. With aforesaid directions, this appeal and application are disposed of.

(SUNIL GAUR)
JUDGE

JANUARY 04, 2017

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