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

Decided on: 7th July, 2017

+ **MAC APPEAL 777/2015**

NATIONAL INSURANCE CO. LTD. Appellant

Through: **Mr. Manoj R. Sinha, Adv.**

versus

RAM CHET & ORS. Respondents

Through: **Mr. Braj Kishore Roy &
Mr. Kapil Kaushik, Advs.**

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The first respondent was working as Work Assistant Lineman with Mahanagar Telephone Nigam Ltd.(MTNL) at the then salary of Rs. 34,474/- per month on 06.02.2012 when he met with an accident suffering injuries due to rash or negligent driving of vehicle described as TATA 407 bearing registration no. DL 1LM 0545 which was concededly insured against third party risk with the appellant insurance company for the period in question. He filed accident claim case (MACT 39/2015) in the wake of detailed accident report (DAR) submitted by the local police on 4.4.2012. The inquiry into the said claim case resulted eventually in judgment dated 28.07.2015 which was modified by subsequent order dated 07.08.2015.

2. A conjoint reading of the judgment and order would show that the tribunal upheld the contention about injuries having been suffered due to rash or negligent driving of the above-mentioned vehicle. This finding has attained finality as it was not challenged by any of the respondents including the appellant herein.

3. In terms of the modified award, compensation in the sum of Rs. 6,64,835/- with interest has been granted in favour of the first respondent (claimant), the computation thereof being shown in the order dated 07.08.2015 as under:-

A. Loss of Future income	Rs. 4,72,500/-
B. Medical Expenses	Rs. 1,19,835/-
C. Loss of enjoyment of amenities of life	Rs. 25,000/-
D. Pain and suffering	Rs. 40,000/-
E. Conveyance and Special Diet	Rs. 20,000/-
F. Attendant services rendered by Family members	Rs. 10,000/-
Total	Rs.6,87,335/-

4. The insurance company questions the calculation of loss of future income on the ground that it is wrongly based on the multiplier of 7. This contention must be rejected. The tribunal has given sound reasons for adopting the multiplier of 7. Since there was no actual loss of income, claimant having continued to be in the service of MTNL and having been given the salary which was due, the assessment of future income is based on the conclusion that the claimant had suffered functional disability to the extent of 37.5% and would

continue to be gainfully engaged even after retirement post the age of 60 years. In the main judgment, the tribunal did observe that such expectation of claimant being employed gainfully beyond the age of superannuation would be for five years. But, given the dicta in *Sarla Verma V. Delhi Transport Corporation* (2009) 6 SCC 121, the multiplier of 7 for the age group 61-65 was the appropriate basis for computation.

5. The insurance company, however, also argues that in the calculation the tribunal missed out on the requirement of deducting the income tax liability. This submission must also be rejected for the reasons the assumed income was taken as Rs.15,000/- which would be below minimum tax limits for the corresponding financial year.

6. The last contention raised by the insurance company concerns the medical expenses awarded to the tune of Rs. 1,19,835/-. It is pointed out that two documents mark 'A' and mark 'B' were disallowed because the claimant had already taken reimbursement of the medical expenses thereby shown from his employer. It is submitted that the bills (Ex.PW-1/4, Ex.PW-1/8, Ex.PW-1/9, Ex.PW-1/10 collectively) showing further medical expenditure to the tune of Rs.1,19,835/- though submitted in original have to be read alongside the assertion that they represented expenditure which were "yet to be reimbursed". Since it is shown that the expenditure incurred by these documents had not resulted in reimbursement by the employer, the argument of the appellant cannot be accepted.

7. The appeal is, thus, dismissed.

8. By order dated 12.10.2015, the insurance company was called upon to deposit the awarded amount with interest with the Registrar General of this Court, from which 50% was allowed to be released and the rest kept in interest bearing fixed deposit with UCO Bank, Delhi High Court Branch, New Delhi. The said balance amount lying in fixed deposit shall also be released to the claimant in terms of the award.

9. Statutory deposit, shall be refunded.

JULY 07, 2017

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R.K.GAUBA, J.



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