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

+ MAC.APP. 150/2017

SAMRAT KUMAR Appellant

Through: Mr. D.K. Panchal, Advocate

versus

BHAGAT SINGH @ PINTO & ORS

(THE ICICI LOMBARD INSURANCE CO) Respondents

Through: Mr. Pankaj Gupta, Mr. Virender Prabhakar, Advocates for Ms. Suman Bagga, Advocate for respondent no.3. Mr. Bhagvan Swarup Shukla, CGSC with Mr. Suraj Kumar, Advocate for UOI/RML Hospital

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **20.02.2018**

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.7,05,000/- has been awarded to the appellant. The appellant is seeking enhancement of the compensation amount.
2. Learned counsel for the appellant submits that the Claims Tribunal has not awarded any compensation under the heads of loss of earning capacity as well as for further treatments. It is submitted that the appellant was examined by the Medical Board of Dr. RML Hospital and the Board vide report dated 26th July, 2017 has assessed the permanent disability of the appellant to be 32% in relation to left lower limb. It is submitted that the compensation awarded by the Claims Tribunal under the pecuniary and non-pecuniary heads also warrant enhancement. Learned counsel for the appellant further submits that the additional evidence is necessary to place

on record the present condition of the appellant as well as the future treatment and surgeries required.

3. This Court is satisfied that the additional evidence is necessary to determine the just, fair and reasonable compensation to the appellant considering that the medical treatment of the appellant is still continuing and the appellant is permitted to lead additional evidence.

4. In the facts and circumstances of this case, the impugned award is set aside and the matter is remanded back to the Claims Tribunal. The parties shall appear before the Claims Tribunal on 3rd April, 2018 when the appellant shall submit the list of witnesses with respect to the additional evidence whereupon the Claims Tribunal shall fix the case for recording of the additional evidence. After recording of the additional evidence, the Claims Tribunal shall afford an opportunity to respondent no.3 to lead the evidence in rebuttal. The Claims Tribunal shall pass fresh award after recording the additional evidence. The amount already deposited by respondent no.3 in terms of the impugned award shall be adjusted in the fresh award to be passed by the Claims Tribunal. The Claims Tribunal shall expedite the hearing in this matter considering that the accident relates to the year 2012. The appeal is disposed of in the above terms.

5. The record of the Claims Tribunal be returned back forthwith.

6. Copy of this order be given *dasti* to counsel for the parties under the signature of the Court Master.

J.R. MIDHA, J.

FEBRUARY 20, 2018

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