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

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Date of Decision: 23rd April, 2018

+ MAC.APP. 195/2017

RELIANCE GENERAL INSURANCE CO LTD Appellant
Through: Mr. A.K. Soni, Mr.Pavan Kumar,
Advocates.

versus

RISHI PAL & ORS Respondents
Through: Mr. O.P. Mannie, Advocate for
respondent no.1.

+ MAC.APP. 862/2017

RISHI PAL Appellant
Through: Mr. O.P. Mannie, Advocate

versus

RELIANCE GENERAL
INSURANCE CO LTD & ORS Respondents
Through: Mr. A.K. Soni, Mr.Pavan Kumar,
Advocates.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The parties have challenged the award dated 11th January, 2018 whereby compensation of Rs.11,65,000/- has been awarded to the claimant.

2. The appellant in MAC.APP.195/2017 is seeking reduction whereas appellant in MAC.APP.862/2017 is seeking enhancement of the award amount.

3. The accident dated 13th August, 2010 resulted in grievous injuries to Rishi Pal. The claimant was admitted in Maharaja Agrasen Hospital upto 26th August, 2010 where his right leg was operated upon by ORIF (open reduction and internal fixation) with LCP plate in his right tibia bone and dual plating with olecranon osteotomy was done under general anesthesia. Debridement of wound on his right elbow was also done. On 21st June, 2011, the claimant was re-admitted in Guru Nanak Eye Hospital and was discharged on 24th June, 2011. He has suffered permanent disability due to the injuries sustained by him in the accident in question. The medical board of Dr. Baba Saheb Ambedkar Hospital vide certificate (Ex.PW1/1) determined his permanent disability as 61% in relation to his left upper and right lower limb. The petitioner was working with mother dairy booth at the time of the accident.

4. The Claims Tribunal took the monthly income of the claimant as Rs.6448/- as per the minimum wages of an unskilled worker at the time of the accident. The Claims Tribunal took the functional disability of the claimant as 60% to adjudicate the loss of future earnings due to the permanent disability as Rs.6,03,532.80. The Claims Tribunal awarded Rs.2,29,787/- towards expenditure on treatment, Rs.20,000/- towards expenditure on conveyance, Rs.25,000/- towards expenditure on special diet, Rs.36,000/- towards cost of nursing/attendant, Rs.50,000/- towards loss of income during treatment, Rs.1 lakh towards pain and suffering and Rs.1 lakh towards loss of enjoyment of life. The total compensation awarded is

Rs.11,65,000/-.

5. Learned counsel for the appellant in MAC.APP.195/2017 urged at the time of the hearing that the functional disability of the appellant has been taken on a higher side. It is further submitted that the non-pecuniary compensation awarded is also on a higher side.

6. Learned counsel for the appellant in MAC.APP.862/2017 seeks enhancement of the compensation amount on the ground that the future prospects of 25% have not been taken into consideration to compute the amount of compensation. It is further submitted that the future medical expenditure of Rs.60,000/- has not been awarded to the claimant.

7. The claimant, Rishi Pal is present in the Court and his condition has been seen. The functional disability of 60% assessed by the Claims Tribunal is fair and reasonable. 25% is added towards future prospects to compute the loss of earning capacity. Taking the income of the claimant as Rs.6,448/- per month, adding 25% towards future prospects and taking the functional disability of the claimant as 60%, the loss of future earnings of the claimant is computed as Rs.7,54,416/- ($\text{Rs.6,448} + 25\% \times 12 \times 13 \times 60\%$). Rs.60,000/- is awarded towards the future medical expenditure of the claimant. The non-pecuniary compensation awarded by the Claims Tribunal is fair and reasonable. The claimant is entitled to a total compensation of Rs.13,75,203/-.

8. MAC. APP. 195/2017 is dismissed. MAC. APP. 862/2017 is allowed and the compensation amount is enhanced from Rs.11,65,000/- to Rs.13,75,203/- along with interest @ 9% per annum from the date of institution of the claim petition i.e. 29th October, 2010.

9. The enhanced compensation amount in MAC. APP. 862/2017 be deposited by the respondent along with upto date interest with the Registrar General of this court within four weeks.
10. List for disbursement of enhanced compensation amount on 30th May, 2018.
11. Copy of this judgment be given *dasti* to learned counsels for the parties under the signatures of the Court Master.

APRIL 23, 2018
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J.R.MIDHA, J.

भारतमेव जयते