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

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Date of Decision: 14th May, 2018

+ MAC.APP. 397/2018 and C.M. Appl. Nos.16132/2018 & 16134/2018

NARESH KUMAR GUPTA

..... Appellant

Through: Mr. Shiv Charan Garg and Mr. Imran Khan, Advocates

versus

**GURPREET SINGH & ANR (HDFC ERGO
GENERAL INSURANCE COMPANY)**

..... Respondents

Through: Mr. Fateh Pal Singh Chhabra,
Advocate for respondent No.1 with
respondent No.1 in person
Mr. Pankaj Singh Thakur proxy for
Mr. Sameer Nandwani, Advocate for
respondent No.2

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.8,54,214/- has been awarded to respondent No.1.
2. On 07th November, 2011 at about 09:00 p.m., respondent No.1 was driving his scooter bearing registration No.DL-4S-BF-3808 and was hit by Santro car bearing No.DL-3C-AB-6419 near Keshopur Depot. The accident resulted in compound segmental fracture of right tibia and fracture of fibula. The respondent No.1 was admitted in J.K. Hospital till 10th November, 2011

and again from 22nd November, 2011 to 26th November, 2011 where he underwent surgery. The respondent No.1 continued his treatment till May, 2012. The injuries suffered by respondent No.1 resulted in 26% permanent disability relating to right lower limb.

3. The Claims Tribunal awarded compensation of Rs.92,632/- towards medical treatment, Rs.20,000/- towards pain and suffering, Rs.20,000/- towards conveyance and special diet, Rs.10,000/- towards attendant charges, Rs.42,264/- towards loss of income during treatment, Rs.6,59,318/- towards compensation for disability and Rs.10,000/- towards loss of amenities of life. The total compensation awarded is Rs.8,54,214/-. The Claims Tribunal passed the award against respondent No.2 and granted recovery rights to respondent No.2 to recover the amount of compensation paid from the appellant on the ground that the licence of the appellant had expired and was not valid on the date of the accident.

4. Learned counsel for the appellant urged at the time of hearing that respondent No.1 was negligent and, therefore, he is not entitled to any compensation. It is further submitted that the compensation awarded by the Claims Tribunal is on a higher side. However, it is not disputed that the appellant was not holding a valid driving licence on the date of the accident.

5. Learned counsel for respondent No.1 submits that the appellant was intoxicated at the time of accident and he pleaded guilty before the learned Metropolitan Magistrate under Section 279 IPC as well as Sections 3/181/185 of the Motor Vehicles Act and, therefore, the objection regarding negligence is not available to the appellant. Respondent No.1 is present in Court and has produced his medical record as well as photographs of the injured portion and his condition has been seen.

6. There is no merit in the appellant's contention challenging the negligence of the appellant. The appellant has pleaded guilty before the concerned Metropolitan Magistrate with respect to offences under Section 279 IPC as well as Sections 3/181/185 of the Motor Vehicles Act. With respect to the appellant's challenge to the quantum of compensation, this Court is of the view that the compensation awarded to respondent No.1 is just, fair and reasonable and does not warrant any interference. The appeal is hereby dismissed.

7. Pending applications are disposed of.

8. Learned counsel for the appellant submits that the appellant shall pay the balance award amount to respondent No.2 in instalments. The appellant is permitted to pay the balance award amount to respondent No.2 in instalments. However, the modalities of the payment in instalments should be discussed directly by the appellant with the competent officer of respondent No.2. The appellant is at liberty to approach respondent No.2 and negotiate the payment of balance award amount in instalments. Learned counsel for respondent No.2 shall communicate the date, venue and the particulars of the officer of respondent No.2 to whom the appellant should meet for this purpose.

9. The statutory amount deposited by the appellant be released to respondent No.2.

10. Copy of this order be given *dasti* to counsels for the parties under signatures of the Court Master.

MAY 14, 2018
rsk

J.R.MIDHA, J.