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

*Decided on: 16<sup>th</sup> March, 2018*

+ MAC.APP. 913/2013 and CM 16094/2013

SUBHASH CHAND ..... Appellant  
Through: Mr. K.K. Dubey, Advocate

versus

AMIT KUMAR & ORS ..... Respondents

Through: Mr. Arihant Jain and Ms.  
Aakansha Dixit for Ms. Shantha Devi  
Raman, Advocate for R-3

**CORAM:**  
**HON'BLE MR. JUSTICE R.K.GAUBA**

**JUDGMENT (ORAL)**

1. The appellant had instituted the accident claim case (RBT MAC petition no.271/09/08) on 23.07.2008 which, after inquiry, was decided by the Motor Accident Claims Tribunal (Tribunal) by its judgment dated 21.01.2013 holding that he (the claimant) had sustained injuries in a motor vehicular accident that had occurred on 24.06.2008 on account of negligent driving by the first respondent (driver) of three wheeler scooter (TSR) bearing registration no.DL-1RF 4010 and had been rendered permanently disabled, his functional disability having been assessed to the extent of 15%, *inter alia*, on the basis of the disability certificate (Ex. PW1/5). The Tribunal awarded compensation in the total sum of Rs.2,18,163/- calculating it thus :-

|         |                                                                                     |                |
|---------|-------------------------------------------------------------------------------------|----------------|
| (i).    | Pain and Suffering                                                                  | Rs.30,000/-    |
| (ii).   | Loss of income during treatment<br>(Rs.3633/- x 4)                                  | Rs.14,532/-    |
| (iii).  | Future loss of income due to permanent disability (Rs.3633/- + 30%) x 12 x 13 x 15) | Rs.1,10,515.86 |
| (iv).   | Medical Bills                                                                       | Rs.5,115/-     |
| (v).    | Conveyance Charges (without bills)                                                  | Rs.5,000/-     |
| (vi).   | Special diet (without bills)                                                        | Rs.5,000/-     |
| (vii).  | Attendant charges (Rs.2,000/- x 4)                                                  | Rs.8,000/-     |
| (viii). | Loss of amenities of life / dis-figuration etc.                                     | Rs.40,000/-    |
|         |                                                                                     | Rs.2,18,162.86 |
|         | Rounded to                                                                          | Rs.2,18,163/-  |

2. The insurer of the TSR (third respondent ) had taken the plea that there was a breach of the terms and conditions of the insurance policy since the driving licence carried by the first respondent was not genuine. This plea was accepted and recovery rights were granted in favour of the third respondent (insurer) against the second respondent (registered owner of the TSR).

3. By the appeal at hand, the claimant sought enhancement of the compensation.

4. Though the appeal was presented questioning the assessment of the functional disability by the Tribunal, at the hearing, the learned counsel arguing for the claimant submitted that he does not press for

any relief on that account and rather prays for suitable enhancement of the compensation under the non-pecuniary heads of damages of pain and suffering and loss of amenities of life wherein the grants are Rs.30,000/- and Rs.40,000/- respectively.

5. Having heard the learned counsel on both sides and having gone through the record, keeping in view the fact that the injuries suffered were grievous on account of fracture of both bones of the left leg, treatment having continued for four months, the same having left an indelible mark on the quality of the life of the claimant in future, the awards granted by the tribunal under the above mentioned two heads are found to be inadequate. The same are increased to Rs.75,000/- each. This would mean there shall be a net increase in the award by Rs.80,000/-. Thus, the total compensation is enhanced to [Rs.2,18,163/- + Rs.80,000/-] Rs.2,98,163/-, rounded off to Rs.3,00,000/- (Rupees Three Lakh only). Ordered accordingly.

6. The third respondent (insurer) will be liable to satisfy the enhanced award by requisite deposit which would include the enhanced portion with corresponding interest with the tribunal within 30 days. The rights of the insurer to recover from the registered owner shall remain unaffected.

7. The appeal and the pending application stand disposed of in above terms.

**R.K.GAUBA, J.**

**MARCH 16, 2018**

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