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

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Date of Decision: 31st October, 2018

MAC.APP. 53/2013

UNITED INDIA INSURANCE CO. LTD. Appellant

Through: Mr. Anshul and Mr. Abhishek Kumar,
Advocates.

versus

SUNDER & ORS

..... Respondents

Through: Mr. Pankaj Gupta, Advocate as
amicus curiae for R1.

JUDGEMENT (ORAL)

1. The appellant has challenged the order of the Claims Tribunal whereby the compensation of Rs.12,20,115/- has been awarded to respondent No.1.
2. The accident dated 25th November, 2007 resulted in 19% permanent disability relating to right lower limb of respondent No.1. Respondent No.1 was a milk seller and he used to sell milk on bicycle. Since respondent No.1 was unable to paddle the bicycle, the Claims Tribunal took the functional disability as 50%. The Claims Tribunal awarded loss of earning capacity of Rs.7,65,000/- by taking the income of respondent No.1 as Rs.8,500/- and

applying the multiplier of 15. The Claims Tribunal awarded Rs.3,115/- towards medical expenses, Rs.25,000/- towards special diet, Rs.25,000/- towards conveyance, Rs.1,02,000/- towards loss of income for 12 months, Rs.1,50,000/- towards pain and sufferings and Rs.1,50,000/- towards loss of amenities and enjoyment of life. The total compensation awarded by the Claims Tribunal is Rs.12,20,115/-.

3. Learned counsel for the appellant urged at the time of hearing that the functional disability of respondent No.1 has been taken on a higher side. It is further submitted that compensation awarded for pain and suffering, and loss of amenities of life is also on a higher side. It is further submitted that the counsel fee of Rs.77,000/- awarded by the Claims Tribunal is not warranted.

4. Learned amicus curiae submits that the Claims Tribunal has not taken the future prospects into consideration for computing the loss of earning capacity.

5. Respondent No.1 is present in Court and his condition has been seen. Respondent No.1 submits that he is unable to do any work due to the permanent disability.

6. This Court is of the view that there is no infirmity in the 50% functional disability taken by the Claims Tribunal. The compensation under the heads of pain and suffering and amenities of life is reduced from Rs.3,00,000/- to Rs.2,00,000/-. The counsel's fee of Rs.77,000/- was not warranted and is set aside. The Claims Tribunal has not awarded future prospects to respondent No.1. The amount of Rs.1,77,000/- reduced above, be treated as the compensation on account of the future prospects while computing the loss of earning capacity.

7. The compensation of Rs.12,20,115/- awarded by the Claims Tribunal

does not warrant any interference for the reasons given above.

8. The appeal is dismissed.

J.R. MIDHA, J.

OCTOBER 31, 2018

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