

\$~R-714

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

Decided on: 11th January, 2018

+ **MAC APPEAL 31/2013**

SHIV KUMAR PANDEY

..... Appellant

Through: None.

versus

GULZAR AHMED & ORS

..... Respondents

Through: Mr. Pradeep Gaur, Advocate for
R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant was the claimant before the Motor Accident Claims Tribunal in accident claim case (MACT No. 781/10/08) instituted on 25.02.2008 whereby he had sought compensation under Sections 166 and 140 of Motor Vehicles Act, 1988 for the injuries suffered by him in a motor vehicular accident that had occurred on 06.10.2007 statedly due to negligent driving of truck bearing registration No.JK-13A-1428, admittedly insured against third party risk for the period in question with the third respondent (the insurer). The Tribunal held inquiry and, on the basis of evidence led, passed the judgment dated 30.05.2012 awarding compensation in the total sum of Rs. 2,31,493/-, calculating it thus:-

A)	Pecuniary damages (Special damages)	
a)	Medical Expenses	Rs.493/-
b)	Future Medical Expenses	Rs.50,000/-
c)	Special diet	Rs.15,000/-
d)	Conveyance charges	Rs.15,000/-
e)	Loss of income	Rs.51,000/-
B)	Non-pecuniary damages (General damages)	
	Pain, suffering, frustration and inconvenience and temporary loss of amenities	Rs.1,00,000/-
	Total	Rs.2,31,493/-

2. The claimant filed the present appeal submitting the grievance that the compensation awarded is inadequate. The appeal was put in the list of 'Regulars' by order dated 01.04.2016 and when it is called out for hearing in its own turn, there is no appearance on behalf of the appellant/claimant.

3. Learned counsel for the third respondent (the insurer) has been heard and with his assistance, the record perused.

4. It is noted that the injuries suffered by the claimant were in the nature of fracture of the pelvic bone besides damage to the urethra and perennial area. He underwent several surgical procedures in spite of which, the evidence shows, the complications in the nature of erectile dysfunction have plagued his life. For leading a normal sexual life, he requires medication. As per the evidence, this condition is likely to persist for the remainder of his life.

5. Against this backdrop, his grievance is that the loss of income for the period of six months only, was inadequate. The appeal states that the claimant was unable to work for gain for almost two years. This submission, however, is not supported by any corroborative evidence on record.

6. While there is no case made out for any addition of compensation under any other heads, in the opinion of this Court, the composite award of Rs.1 lakh towards pain and suffering, frustration, inconvenience and temporary loss of amenities is found to be inadequate. The said amount of Rs.1 lakh shall be treated as the award granted only towards the head of pain, suffering, frustration and inconvenience. For loss of amenities of life, an additional Rs.1 lakh is granted.

7. The compensation is thus, increased to Rs.(2,31,493 + 1,00,000) Rs.3,31,493/- rounded off to Rs.3,32,000/- (Rupees Three Lakhs Thirty Two Thousand Only).

8. The award is modified accordingly. It shall carry interest as levied by the Tribunal. The third respondent (the insurer) would satisfy the enhanced award by requisite deposit with the Tribunal within 30 days making it available to be released to the claimant.

9. The appeal is disposed of in above terms.

R.K.GAUBA, J.

JANUARY 11, 2018

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