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

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Date of Decision: 16th April, 2018

+ MAC.APP. 486/2017 and C.M. Appl. 19864/2017

UNIVERSAL SOMPO GEN INS CO LTD Appellant
Through: Mr. Mohammad Mustafa, Advocate

versus

RAVINDER KUMAR Respondent
Through: Mr. Irfan Ghayas and Mr. Sandeep
Kumar, Advocates

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby the compensation of Rs.12,43,000/- has been awarded to respondent No.1.
2. On 27th March, 2010, respondent No.1 was standing along with his friend with his motorcycle parked on the left side of the road when he was hit by Maruti car from behind which resulted in grievous injuries to respondent No.1.
3. Respondent No.1 was taken to Satyawadi Raja Harish Chandra Hospital where his MLC was prepared. He was thereafter taken to LNJP Hospital and then shifted to Sant Parmanand Hospital, Civil Lines, Delhi, where he remained admitted from 28th March, 2010 to 23rd May, 2010. He was again hospitalised on 25th June, 2010 and was discharged on 26th June,

2010 and again hospitalised on 19th July, 2010 and discharged on 20th July, 2010.

4. Respondent No.1 has suffered 7% permanent disability with respect to right upper and lower limbs. The Claims Tribunal took the functional disability of respondent No.1 as 10% and awarded Rs.2,16,000/- towards loss of future earnings. The Claims Tribunal further awarded Rs.3,76,827/- towards the medical expenses, Rs.50,000/- towards special diet, Rs.10,000/- towards conveyance, Rs.1 lakh towards pain and suffering, Rs.1,50,000/- towards loss of enjoyment of life, Rs.2,40,000/- towards loss of earning during treatment and Rs.1 lakh towards diminishing prospects of marriage. The total compensation awarded is Rs.12,43,000/-.

5. Learned counsel for the appellant urged at the time of hearing that the respondent No.1 was contributory negligent as he was standing near the road divider. It is further submitted that the compensation awarded by the Claims Tribunal is on higher side. According to the appellant, the compensation towards pain and suffering, marriage prospects and earning capacity should be reduced.

6. Respondent No.1 is present in Court and has handed over ten photographs with respect to the injuries suffered by him. The photographs reflect that respondent No.1 has suffered grievous injuries all over his body and his whole body is full of injury scars. Respondent No.1 is also not able to speak properly due to the injuries suffered by him.

7. Considering the nature of injuries suffered by respondent No.1, this Court is of the view that the compensation awarded by the Claims Tribunal is just, fair and reasonable and does not warrant any reduction.

8. With respect to the plea of contributory negligence raised by the

appellant, the respondent No.1 appeared in the witness box to prove the negligence of the Maruti car and the driver of the Maruti car did not appear in the witness box to rebut the same. In that view of the matter, the plea of contributory negligence is rejected.

9. There is no merit in the appeal, which is hereby dismissed.

10. The appellant has deposited the entire award amount with the Claims Tribunal out of which 60% has been released to respondent No.1. The Claims Tribunal is directed to release the balance award amount to respondent No.1 in terms of the award.

11. The statutory amount be refunded back to the appellant.

12. Pending application is disposed of.

APRIL 16, 2018

rsk

J.R.MIDHA, J.

भारतमेव जयते