

\$~24

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

%

Date of Decision: 23rd May, 2018

+ MAC.APP. 602/2017 and C.M. Appl. 24824/2017

IFFCO TOKIO GENERAL INSURANCE
COMPANY LTD

..... Appellant

Through: Mr. Pankaj Gupta proxy for Ms.
Suman Bagga, Advocate

versus

KISHORE SHARMA AND ORS

..... Respondents

Through: Mr. R.K. Bachchan, Advocate for
respondent No.1

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby Rs.4,42,000/- has been awarded to respondent No.1.
2. On 25th February, 2015 at 09:30 P.M., the respondent No.1 was driving the motorcycle No.DL-7S BB-8970 which was hit by Eicher truck No.DL-1M-7125 which resulted in intercondylar distal humerus fracture on left elbow and diffuse swelling and tenderness to Kishore. The operation for ORIF (Open Reduction and Internal Fixation) and plating was performed on the left elbow of Kishore on 03rd March, 2015 in BJRM Hospital, Delhi. Respondent No.1 remained admitted from 10th September, 2015 to 18th September, 2015 for the operation for removal of plate in BJRM Hospital, Delhi.
3. The Claims Tribunal awarded Rs.9,450/- towards medical expenses, Rs.15,000/- towards special diet, Rs.15,000/- towards conveyance charges,

Rs.50,000/- towards cost for removal of steel implant, Rs.51,792/- towards loss of income during treatment, Rs.1,50,000/- towards pain and suffering and Rs.1,50,000/- towards loss of enjoyment of life. The total compensation of Rs.4,42,000/- is awarded.

4. Learned counsel for the appellant urged at the time of hearing that the compensation of Rs.1,50,000/- awarded under the head of pain and suffering and Rs.1,50,000/- awarded under the head of loss of enjoyment of life is on a higher side.

5. Learned counsel for respondent No.1 submits that the compensation amount is just, fair and reasonable.

6. Respondent No.1 is present in Court and his condition has been seen. This Court is of the view that the amount awarded to respondent No.1 is just, fair and reasonable and does not warrant any reduction.

7. The appeal is dismissed. Pending application is disposed of.

8. The appellant has deposited the entire award amount with the Claims Tribunal out of which 30% amount has already been released to respondent No.1.

9. The Claims Tribunal is directed to release the balance amount to respondent No.1 in terms of the award.

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

MAY 23, 2018
rsk

J.R.MIDHA, J.