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

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Date of Decision: 23rd March, 2018

+ MAC.APP. 1096/2017 & CM No.45534/2017

SBI GENERAL INSURANCE CO LTD Appellant
Through: Mr. Sameer Nandwani, Advocate

versus

RAJ KUMAR & ORS Respondents
Through: Mr. Siddharth Nanwal, Advocate for
respondent No.1

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

JUDGMENT (ORAL)

1. The appellant has challenged the award dated 22nd September, 2017, whereby compensation of Rs.14,19,000/- has been awarded to respondent No.1.
2. On 04th December, 2013, respondent No.1 was going on his motorcycle bearing No.DL-8S-AS-2574 from Madhuban Chowk towards Kohat Enclave when a bus going ahead of him suddenly stopped whereupon respondent No.1 applied the brake but was hit by a tempo bearing No.RJ-14-GA-4214 from behind driven by respondent No.2 in a rash and negligent manner. Respondent No.1 fell down and suffered grievous injuries and was taken to Bhagwan Mahavir Hospital, Pitampura.
3. Respondent No.1 suffered multiple grievous injuries all over his body

and suffered fracture in his right lower limb which resulted in 43% permanent disability due to post traumatic stiffness in right ankle and foot. The Claims Tribunal took the functional disability of respondent No.1 as 22% and applied the multiplier of 14 to compute the loss of earning capacity of Rs.9,81,214/-. The Claims Tribunal awarded Rs.2,37,197/- towards medical expenditure, Rs.75,000/- towards pain and suffering, Rs.25,000/- towards conveyance, Rs.25,000/- towards special diet and Rs.75,000/- towards loss of amenities of life. The total compensation awarded is Rs.14,19,000/- along with interest @ 9% per annum.

4. Learned counsel for the appellant urged at the time of hearing that respondent No.1 is working as a Head Constable with Delhi Police and has not suffered loss of income and, therefore, he is not entitled to any amount towards the loss of earning capacity. It is further submitted that respondent No.1 was entitled to receive reimbursement of the medical expenses from his office and is therefore, not entitled to medical expenses of Rs.2,37,197/- awarded by the Claims Tribunal.

5. Respondent No.1, present in Court, submits that he has not claimed the reimbursement of the medical expenses from his office. Respondent No.1 further submitted that he has lost promotion on account of permanent disability.

6. Learned counsel for appellant submits that respondent No.1 has not led any evidence to prove the loss of promotion prospects. It is further submitted that respondent No.1 is entitled to reimbursement of the medical expenses from his office and he can still apply for reimbursement from his office.

7. Learned counsel for respondent No.1 seeks permission to lead

additional evidence to prove the loss of promotion. Respondent No.1 further seeks permission to claim reimbursement of the medical expenditure from his office.

8. In the facts and circumstances of this case, this Court is of the view that additional evidence is necessary to ascertain whether respondent No.1 has suffered any loss of promotion.

9. The appeal is allowed, the impugned order is set aside and the matter is remanded back to the Claims Tribunal to record additional evidence of respondent No.1 with respect to the loss of alleged promotion. Liberty is given to respondent No.1 to seek reimbursement of his medical expenditure from his office in accordance with the Rules and if the entire medical expenditure is not reimbursed, liberty is given to respondent No.1 to claim the balance medical expenditure. Liberty is also given to the appellant to rebut the additional evidence to be led by the respondent No.1.

10. The appellant has deposited Rs.3,62,197/- along with interest @ 9% per annum with the Registrar General of this court in terms of order dated 15th December, 2017. The Registrar General is directed to release Rs.2,25,000/- to respondent No.1 subject to the fresh award that would be passed by the Claims Tribunal. The Claims Tribunal shall pass an appropriate order with respect to the adjustment of Rs.2,25,000/- being released to respondent No.1.

11. The balance amount, after releasing Rs.2,25,000/- to respondent No.1, be refunded back to the appellant. The statutory amount be also refunded back to the appellant.

12. The parties shall appear before the Claims Tribunal on 18th April, 2018 at 02:30 p.m.

13. The record of the Claims Tribunal be returned back forthwith.
14. Pending application is disposed of.
15. Copy of this judgment be given *dasti* to counsels for the parties under signatures of the Court Master.

MARCH 23, 2018
rsk

J.R.MIDHA, J.

