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

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Decided on: 17.07.2019

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MAC.APP. 803/2018 & CM Nos.36596 & 36602/2018

CHOLAMANDALAM MS GENERAL INSURANCE CO LTD.

..... Appellant

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

Versus

DEVENDER & ORS.

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation on the ground that it is devoid of any proof that the injured-claimant was (i) by vocation a driver of a motor vehicle and (ii) that he had suffered loss of future income. However, both these issues have been duly considered in the impugned order. The respondent – injured was hospitalised on account of a motor vehicle accident for a period of about ten months. It is not in dispute that the injured was admitted in Orthoplus Hospital, Gopal Nagar, Najafgarh, Delhi on 30.01.2011 and was discharged on 08.02.2011.

2. The accident took place on 01.09.2010. The injured had suffered pelvic fracture in his right leg and a steel rod, supported by SC Nails, had been implanted, which was subsequently removed. Nevertheless, the entire

recovery period was for ten months, as advised by doctors and ultimately after removal of the steel implant, he has suffered 25% permanent disabled apropos his right lower limb.

3. The learned Tribunal was of the view that of the two motor vehicles, which the claimant claims to own – one was registered in his brother's name and the other was in his own name and that he also possessed a driving licence; therefore, his claim that he suffered a loss of earning capacity for the period of recuperation was accepted. Instead of amount claimed by the injured, the minimum wages applicable to a skilled worker i.e. a person holding a valid driving licence, at the relevant time, was applied. This Court finds no reason to interfere with the said reasoning and conclusion.

4. Insofar as the injured has suffered 25% permanent disability and the learned Tribunal assessed it contributing to the same degree of functional disability, the Award cannot be faulted, because the said disability has caused shortening of the affected limb and would no doubt affect his ability to drive a vehicle by at least 25%.

5. In view of the above, the Court finds no reason to interfere with the reasoning and conclusion reached by the learned Tribunal. The appeal, being without merits, stands dismissed alongwith pending applications.

NAJMI WAZIRI, J.

JULY 17, 2019

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