

\$~7

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

%

Decided on: 13.12.2019

+ **MAC.APP. 624/2017 & CM APPL. 25546/2017**

UTTAR PRADESH STATE ROAD TRANSPORT CORPORATION

..... Appellant

Through: Mr. Shadab Khan, Adv.

versus

BABLI & ANR.

..... Respondents

Through: Mr. R.B. Sharma, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

1. This appeal impugns the award of compensation dated 31.03.2017 passed by the learned MACT in Suit No. 5581/16 on the following grounds:-

(i) that there was negligence on the part of the injured as she got off from the moving bus. The aforesaid contention is *ex facie* untenable because the bus being an inter-state bus, its doors would open for boarding and alighting of passengers only when it had come to a stop. The appellant says that the passenger was getting-off from a moving bus, it implies that the bus driver or bus conductor had either opened the door for her specifically or it was otherwise kept open throughout the journey. In both circumstances, the bus was being plied in a negligent manner because its doors should have been closed. Therefore, the negligence of the passenger is not made out. The appellant's contention is rejected.

(ii) The next argument of the learned counsel for the appellant is that the claim petition had remained dismissed for non prosecution from 13.12.2012 to 11.05.2015 and it was only after the restoration of the claim petition, that the award of compensation was passed. The said contention is valid, accordingly, there shall be no interest for the aforesaid period.

(iii) The next argument of the learned counsel for the appellant is that the award of Rs. 1,50,000/- towards “ loss of enjoyment of life” is unjustified. The said contention is *ex facie* invalid in view of the photographs of the injury caused to the unfortunate victim. The photographs exhibited at page 46 and 47 of the paper book speak volumes and do not need any elaboration. The only conclusion that could be drawn from glancing at the pictures is that the injury is extensive and the deformity is unfortunate. Hence, the appellant’s contention is rejected.

2. The learned counsel for the appellant submits that the monies are deposited before the learned Tribunal. Let the same be released to the beneficiary(ies) of the award in terms of the scheme of disbursement specified therein, subject to the aforesaid modifications.

3. Since the appellant has partially succeeded in the appeal, the statutory amount, along with interest accrued thereon, shall be returned to it.

4. The appeal is disposed-off in the above terms.

NAJMI WAZIRI, J

DECEMBER 13, 2019

kb