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

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Decided on: 10.10.2019

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MAC.APP. 872/2018 & CM APPL. 40310/2018

ORIENTAL INSURANCE CO LTD

..... Appellant

Through: Mr. Ravi Sabharwal, Advocate.

versus

OMKAR & ORS

..... Respondents

Through: Mr. Ajay Sharma, Advocate for R-1.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation dated 13.08.2018 passed by the learned MACT in MACP No. 450135/2016, whereby an amount of Rs. 42,192/- was awarded as compensation towards 'loss of income' for the period of recuperation of the injured-claimant. It is the appellant's case that in the Claim Petition the injured had claimed such incapacitation of only six months, therefore for the learned Tribunal to have awarded damages for one year is without any basis. The motor-vehicular accident occurred on 21.11.2007 and the Claim Petition was filed almost after one year on 18.10.2008.

2. The learned counsel for the respondent submits in this regard that the six months' period was only apropos the recovery from the injury but that

does not mean that immediately after healing of the bones the claimant was able to attend to his vocation. It is his case that healing of bones is different from regaining of strength in the limbs and the subsequent rehabilitative physiotherapy for regular movement of the injured; that this recovery period was far more than six months as mentioned in the Claim Petition therefore, there is no error in the impugned award. However, he submits that since the accident happened over a decade ago, the respondent is ready and willing to settle for an amount payable for lesser than one year.

3. The Court would note that the claimant had filed no document apropos his medication and expenses. In the circumstances, the period of one year is unjustified. Therefore, the same is reduced to eight months. Accordingly, the amount payable towards 'loss of income' shall be Rs. $3,516 \times 8 = \text{Rs.} 28,128/-$.

4. The aforesaid amount, alongwith interest accrued thereon, shall be released right away to the claimant at the same rate of interest and from the same date as mentioned in the Award. The balance amount shall be returned to the insurance company alongwith statutory amount and interest accrued thereon.

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

NAJMI WAZIRI, J

OCTOBER 10, 2019

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