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

Decided on: 09.12.2019

+ **MAC.APP. 912/2018 & CM APPL. 42145/2018**

SHRIRAM GEN INS CO LTD Appellant
Through: Mr. Mohammed Mustafa, Adv.

versus

ANITA Respondent
Through: Mr. Mohinder Malhotra, Adv.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation dated 02.08.2018 passed by the learned MACT in MACT Case No. 451510/16 on the ground that the learned Tribunal has erred in construing 60% physical disability of the left upper limb of the injured as functional disability of equivalent degree.

2. The Court is unable to agree with the said contention because the injured – a Lab Instructor, would necessarily have to use both her hands when teaching students or imparting instructions for any test or scientific phenomenon in a laboratory. With a 60% disability in the use of her left hand, she would not be able to hold objects by her injured hand as comfortably, effecting and adroitly as she would have done prior to the injury. This would obviously affect her ability to function as an efficient Lab Instructor. The fact that she has been retained in the employment by the

same employer, could well be on account of humanitarian and sympathetic reasons, but the same would not negate or diminish the factum of her functionality being reduced, both as an employee – a Laboratory Assistant as well as in the day-to-day personal and social activities, at home and outside. In the circumstances, for the learned Tribunal to have assessed the functional disability at 60% is just. The learned Tribunal has reasoned as under:-

“25. That, the disability certificate, issued by the Medical Board of Dr. Baba Saheb Ambedkar Hospital, Delhi and as per disability certificate, there is 60% permanent disability in relation to left upper limb and because of the grievous injuries sustained by the petitioner in the road traffic accident and due to said disability, she would not be able to work properly with her left hand in future and it is very difficult for a married woman to work household with one arm. Ld, Counsel for the petitioner/injured has argued that 60% disability kindly be considered as 100% permanent physical disability as the petitioner is facing the difficulty till date and not able to work properly during her life and the same is because of the injuries sustained in the accident, but this argument is unsustainable, however, the petitioner is having the 60% disability in relation to left upper limb and she must have faced the difficulties for her day to day working being a married lady and having small baby, therefore, in the given facts and circumstances, this tribunal is of the considered view that 60% permanent disability of the petitioner is justifiable.

That, injured/petitioner was 26 years at the time of the accident as mentioned in the MLC of the petitioner/injured as well as in the School certificate and the multiplier of 17 would be applicable and the compensation under this head is assessed as under:- $9555 \times 12 \times 17 \times 60 / 100 = 11,69,532/-$,

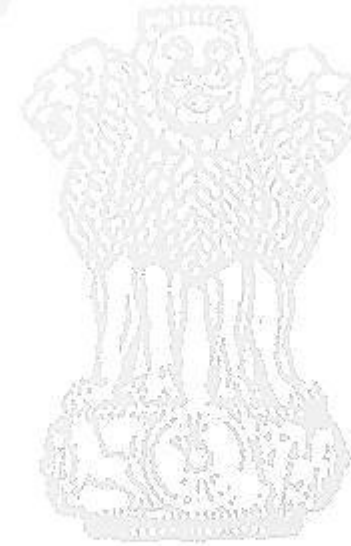
therefore, this tribunal award a sum of Rs.11,69,532 /- (Rupees Eleven Lakh Sixty Nine Thousand Five Hundred Thirty Two Only) is hereby passed as compensation under this head.”

3. For the aforesaid reasons, the Court finds no reason to interfere with the impugned order. The appeal is without merit and is dismissed.

4. Since the appeal has been dismissed, the statutory amount, along with interest accrued thereon, shall be desposited in ‘AASRA’ Fund created by this Court.

DECEMBER 09, 2019/KB

NAJMI WAZIRI, J



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