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

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Decided on: 26.09.2019

+ MAC.APP. 1058/2017

MASTER SHIVAM

..... Appellant

Through: Mr. Manish Maini and Ms. Hreeshika
Bhargava, Advocates.

versus

VIJAY PAL YADAV & ORS

..... Respondents

Through: Mr. P. Srinivasan, Advocate on behalf
of Mr. Rajeev M. Roy, Advocate for
R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation dated 16.02.2017 passed by the learned MACT in DAR No. D-618/14 on the ground that lumpsum amount of Rs. 3,00,000/- has been awarded to the minor apropos the 12% disability with respect to whole body, caused due to a motor-vehicular accident.

2. In the present case, the 11 year old child has suffered 12% permanent physical disability in his left lower limb. Keeping in view the extent of the disability and the dicta of Supreme Court in *Mallikarjun Vs. Divisional Manager, National Insurance Company Limited and Another*, (2014) 14 SCC 396, the learned Tribunal has rightly granted Rs. 3,00,000/- as the lumpsum amount payable. The same does not call for any interference.

3. The appellant's second argument is that the injuries were caused to the child on 06.09.2014 when his left lower limb was crushed under a motor vehicle. The doctors at Max Hospital recorded his injuries as grievous. The child suffered injuries of the following nature as recorded in the impugned order:

“15. In the instant case the petitioner/ injured was 11 years old at the time of accident. He was initially removed to Max Balaji hospital, Patparganj, Delhi. He was shifted to Sushtura Trauma Centre on the same day. He has been diagnosed with IT Femur (left) with fracture of left tibia with pubic diastasis and other injuries. He has remained admitted to hospital from 06.09.2014 till 11.09.2014. On 12.09.2014 he has been admitted to Chacha Nehru Bal Chikitsalya, Geeta Colony, Delhi and remained admitted till 16.09.2014. He was diagnosed with inter trochanteric fracture tibia left and operated upon for fracture inter trochanteric femur left and plaster put for fracture tibia at the time of his admission. His follow up treatment has continued. He has undergone enormous pain and sufferings during the course of treatment. He is entitled for compensation of Rs.40,000/- on account of pain and sufferings.”

(emphasis supplied)

4. The Court would note that he was initially moved to a private hospital in Patparganj, Delhi and subsequently he was shifted to Sushruta Trauma Centre, Delhi, on the same day where his left tibia was diagnosed as having been fractured and the pubic diastasis and other injuries were recorded. Consequently, his left tibia was operated upon and plaster was put up on it for its treatment, after which he was shifted to Chacha Nehru Bal Chikitsalya, Geeta Colony, Delhi, wherein he had to visit the OPD of the said hospital, till December 2014. In other words, the injured-minor had not

recovered even after four months of the injury. His suffering continued for those days, alongwith obvious pain in his movement, as well as in his pubic area and due to other injuries on the body as well.

5. In the circumstances, the compensation of Rs. 40,000/- is on the lesser side. It is enhanced to Rs. 2,00,000/-. Let the enhanced amount of Rs. 1,60,000/-, alongwith interest @ 9% from the date of filing of the claim petition till its realization, be deposited before the learned Tribunal to be released to the beneficiary of the award in terms of the scheme of disbursement specified therein.

6. The appeal is allowed and disposed-off in the above terms.

SEPTEMBER 26, 2019

AB

NAJMI WAZIRI, J

न्यायमेव जयते