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

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Date of Decision: 29th March, 2019

+ MAC.APP. 1087/2017, CM No.45052/2017(stay)

IFFCO TOKIO GENERAL INSURANCE CO LTD Appellant

Through: Mr. Brijesh Bagga, Adv.

versus

VIKAS KUMAR @ VICKY & ORS

..... Respondents

Through: Mr. Ajeet Kumar, Adv. for R-1
along with Respondent no.1 in
person.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGEMENT (ORAL)

1. The appellant has challenged an order of the Claims Tribunal whereby the compensation of Rs.5,35,000/- has been awarded to respondent no.1.
2. On 7th August, 2014, respondent no.1 was driving his scooter at Village Dhipur when he was hit by Maruti Swift Dzire Car No.DL 8C AW 0893 from front side which resulted in grievous injuries. Respondent no.1 was taken to Babu Jagjivan Ram Memorial Hospital from where he was shifted to JPN Hospital. The respondent no.1 suffered fracture of right femur bone for which he underwent a surgery and a rod was inserted in his right leg. The Medical Board assessed the temporary disability of respondent no.1 as 22%.
3. The Claims Tribunal awarded Rs.34,604/- towards medical treatment, Rs.50,000/- towards conveyance, special diet and attendant

charges, Rs.2,00,000/- towards loss of income, Rs.1,00,000/- towards pain and suffering and Rs.1,50,000/- towards loss of enjoyment of life. Total compensation awarded is Rs.5,35,000/-.

4. Learned counsel for the appellant urged at the time of hearing that the compensation awarded by the Claims Tribunal is on the higher side. It is submitted that respondent no.1 has suffered temporary disability and therefore, the compensation awarded under the head of pain and suffering and loss of enjoyment of life are liable to be reduced. It is further submitted that the compensation for loss of income is also on the higher side. Learned counsel for the appellant further submits that respondent no.1 was drunk at the time of accident and there is contributory negligence.

5. Learned counsel for the respondent no.1 submits that respondent no. 2 has suffered permanent disability due to the fracture of right femur bone. It is submitted that no compensation has been awarded for disfiguration. It is further submitted that respondent no.1 has suffered loss of earning capacity due to the disability. He further submits that he was working as security guard and his earning has been affected due to disability.

6. Respondent no.1 is present in Court and his condition is the same. This Court is of the view that the compensation awarded is just and fair and does not warrant any interference. There is no evidence with respect to the contributory negligence of respondent no.1.

7. The appeal and the pending application are dismissed.

8. Interim order is vacated.

9. Record of the Claims Tribunal be returned back forthwith.

10. Copy of this order be given *dasti* to counsel for the parties under the signatures of the Court Master.

J.R. MIDHA, J.

MARCH 29, 2019

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