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

% *Decided on: 18.11.2019*

+ MAC.APP. 88/2018 & CM APPL. 2714/2018, 2716/2018

NATIONAL INSURANCE CO LTD Appellant

Through: Mr. Pankaj Seth, Adv.

versus

AJMERI KHATOON & ORS

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

MAC. APP. 130/2016 & C.M. No.4522/2016 (for stay)

1. This appeal impugns the award of compensation dated 16.09.2017 passed by the learned MACT in Suit No. 51/2014 (MACT No. 356660/16) on the ground that it has erred in assessing functional disability of the injured as 30%, whereas as per the disability certificate, the injured has suffered 10% permanent disability in relation to her whole body. The Court would note that injured/claimant was a tailor by profession. She suffered 10% permanent disability apropos her whole body and the same was proved by PW-1, Dr. B. Kanhar, who deposed that due to the disability of injured, she will not be able to do her tailoring job. The impugned order has reasoned as under:

“since claimant sustained 10% permanent disability in relation to her whole body, it can safely be presumed that disability would certainly affect her earning capacity.

Considering the percentage of disability and nature of job of the claimant, 30% loss of earning capacity due to disability is ascertained for the purpose of computation of just compensation.”

2. The Court is of the view that the services and activities of a tailor involves the active use of all limbs particularly both hands and feet. Both the hands are used for sewing and holding the cloth which is being tailored and legs are used for working on pedals of the sewing machine. Furthermore, the tailor is required to sit up upright and insofar as any portion of the body is disabled, in particular 10% permanent disability apropos the whole body, the same would affect the functioning of the tailor to a large extent. The injured would be required to bend to take garment measurements for each client. This would be significantly curtailed. In the circumstances, the functional disability of 30% for a labour intensive vocation cannot be faulted.

3. The appeal is without merit. It is accordingly dismissed.

4. The statutory amount, alongwith interest accrued thereon, be deposited into the “AASRA Fund” created by this Court.

NAJMI WAZIRI, J

NOVEMBER 18, 2019

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