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

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Date of Decision: 03rd March, 2020

+ MAC.APP. 196/2018

REENA KANOJIA & ORS

..... Appellants

Through: Mr. Vikas Jain and Mr. Manjit Saini,
Advocates.

versus

SAITAN SINGH GUJJAR & ORS (THE NEW
INDIA ASSURANCE CO LTD)

..... Respondents

Through: Mr. Ajmad Hussain, Mr. Ajay Kumar
Singh and Mr. Nasim Anwar,
Advocates for R2.
Mr. Pankaj Seth, Advocate for R3.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T (O R A L)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.79,136/- has been awarded to the appellant.
2. On 01st April, 2016 at about 7:15 A.M., Dilip Kumar was hit by truck bearing No.HR-47B-4251 which resulted in amputation of his left arm above elbow. Dilip Kumar expired on 02nd June, 2016 due to a gunshot injury. The legal representatives of Dilip Kumar claimed the compensation.
3. The Claims Tribunal awarded Rs.10,000/- towards medical expenses, Rs.30,000/- towards special diet, attendant and conveyance, Rs.20,000/- towards pain and suffering and Rs.19,136/- towards loss of income. The total compensation awarded is Rs.79,136/-.

4. Learned counsel for the appellant submits that this matter be remanded back to the Claims Tribunal as the well settled principles relating to the computation of compensation in amputation cases have not been followed.

5. Learned counsel for respondent No.2 submits that the driver of the offending vehicle was holding a valid driving licence at the time of the accident and the same has been placed on record along with the reply. It is further submitted that respondent No.2 could not place on record the driving licence as he was proceeded *ex-parte*. Learned counsel for respondent No.2 seeks setting aside of the recovery rights granted by the Claims Tribunal.

6. Learned counsel for respondent No.3 submits that the compensation awarded by the Claims Tribunal is just, fair and reasonable. It is further submitted that the Claims Tribunal has rightly granted the recovery rights to respondent No.3. Learned counsel for respondent No.3 opposes the remand of this matter.

7. Considering that the Claims Tribunal has not followed the well-settled principles for computation of compensation, this Court is of the view that it would be appropriate to remand the matter back to the Claims Tribunal for fresh adjudication. In the peculiar facts and circumstances of this case, the case is remanded back to the Claims Tribunal for fresh adjudication.

8. Respondent No.2 has produced the driving licence before this Court, copy whereof has been furnished to counsel for respondent No.3 today in Court. Respondent No.3 is directed to verify the genuineness of the said driving licence and submit a report before the Claims Tribunal with respect to the said licence on the date fixed.

9. The Claims Tribunal is directed to pass a fresh order after hearing all

the parties within a period of three months from today.

10. The appeal is disposed of in the above terms. Pending applications are disposed of.

11. All the parties shall appear before the Claims Tribunal on 13th April, 2020 at 02:30 P.M.

12. Learned counsel for the appellant, learned counsel for respondent No.2 as well as learned counsel for respondent No.3 have noted down the date of hearing before the Claims Tribunal and no fresh notice would be required for their appearance before the Claims Tribunal.

13. The record of the Claims Tribunal be returned forthwith back along with the copy of this judgment.

14. List for reporting compliance on 10th July, 2020.

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

MARCH 03, 2020
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J.R. MIDHA, J.

न्यायमेव जयते