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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 23.08.2023

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MAC.APP. 133/2020

UNITED INDIA INSURANCE CO LTD

..... Appellant

Through: Mr. Pradeep Gaur & Ms. Sweta Sinha, Advs.

versus

BIRJPAL SINGH & ORS

..... Respondents

Through: Mr. Manu Luv Shahalia, Adv.
for R-1

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This appeal has been filed by the appellant challenging the Award dated 03.10.2019 (hereinafter referred to as the 'Impugned Award') passed by the learned Motor Accidents Claims Tribunal, South District, Saket Courts (hereinafter referred to as the 'Tribunal'), in Petition no.382/2017, titled ***Birjpal Singh v. Aman & Ors.***

2. The appellant challenges the Impugned Award on the ground that the learned Tribunal has erred in awarding compensation in favour of the respondent no.1 herein/claimant in the Claim Petition towards loss of leaves. The learned counsel for the appellant submits that there was no cogent evidence placed on record by the respondent no.1 of any medical leaves having been taken by him as a

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result/consequence of the accident in question and the injuries suffered therein.

3. I find no merit in the above submission of the learned counsel for the appellant.

4. The learned Tribunal has placed reliance on the statement of PW-3-Sh.Harish Kumar Sangwan, and has observed that the record with respect to the medical leaves taken by the respondent no.1 from 18.07.2017 to 12.12.2017, a total of 148 days, has been proved from his service book Ex.PW3/2. The witness had further stated that the leaves were granted to the respondent no.1 after the medical certificate was issued by the Doctor to the respondent no.1. I may quote the relevant observation from the Impugned Award as under:-

“PW-3 stated that as per record the petitioner Birjpal Singh had taken medical leaves from 18.07.2017 to 12.12.2017 (148 days). He has placed on record the attested copy of his service book Ex.PW3/2. During cross-examination he stated that he has brought the salary slip for the month of January, 2019 but not the salary slip for the month of July, 2017. He further stated that the leaves are granted after receiving medical certificate issued by a doctor. The petitioner has placed on record his salary slips Ex.PW1/2 for the month of April, 2017 to June, 2017. As per the salary slip for the month of June, 2017, the gross salary of the petitioner was Rs.50,950/- which include Rs. 1,600/- as conveyance. This amount needs to be deducted from the gross salary for calculating the loss of income. After deduction, the loss of income comes to Rs.49,350/-. The petitioner had to take medical leaves due to



the injuries sustained in the present accident which he could have availed for some other illness. Therefore, he is entitled for the loss of leaves. Thus, the loss of leaves comes to Rs.2,43,460/- (Rs.49,350/30 x 148). I therefore, award Rs.2,43,460/- towards loss of leaves."

5. The learned counsel for the appellant has not been able to show on what grounds the above findings can be faulted. The first challenge of the appellant to the impugned Award is therefore, rejected.

6. The next challenge of the appellant is that the learned Tribunal has erred in awarding a sum of Rs.1 lac as compensation towards the disability suffered by the respondent no.1. The learned counsel for the appellant submits that as per the Disability Certificate, the respondent no.1 had suffered only 6% permanent disability in relation to his right lower limb. He submits that the learned Tribunal itself records that there is no evidence on record showing that the respondent no.1 had incurred any loss due to the disability suffered by him. However, in spite of the above finding, the learned Tribunal has awarded a sum of Rs.1 lac in favour of the respondent no.1.

7. In find no merit in the above challenge of the appellant.

8. It is not disputed that the respondent no.1 has suffered 6% permanent disability in relation to his right lower limb, and because of the injury suffered, he has, in fact, remained on leave for a substantial period of 148 days. Because of the injury



suffered, he would have undergone tremendous pain and suffering. I do not find a sum of Rs.1 lac awarded by the learned Tribunal to be so unreasonable so as to warrant any interference by this Court.

9. The last challenge of the appellant to the Impugned Award is to the award of interest at the rate of 9% per annum in favour of the respondent no.1. Placing reliance on the judgment of this Court in *National Insurance Co. Ltd. v. Yad Ram and Others*, 2023 SCC OnLine Del 1849, the learned counsel for the appellant submits that this Court had reduced the rate of interest to 7.5%, keeping in view the rate of interest as was applicable during and around the period of the accident in question therein.

10. The learned counsel for the respondent no.1 does not seriously dispute the above challenge. Accordingly, the Impugned Award shall stand modified to the limited extent that the appellant is held liable to pay the compensation amount of Rs.4,54,300/- to the respondent no.1, along with interest at the rate of 7.5% per annum from the date of filing of the Detailed Accident Report to the date of the deposit of the awarded amount.

11. In terms of the order dated 04.03.2020, the appellant has deposited a sum of Rs.3 lacs with the learned Registrar General of this Court. The appellant shall deposit the balance amount with the Registrar General of this Court, after adjusting the amount already deposited. The appellant shall make the deposit



of the balance, if any, in terms of the Impugned Award and as modified by this judgment within a period of six weeks from today.

12. Further, by the order dated 16.12.2021, the sum of Rs.3 lacs deposited by the appellant has been released to the respondent no.1. The balance amount shall be released in favour of the respondent no.1 forthwith, on such deposit.

13. The present appeal is disposed of in the above terms.

14. The statutory amount deposited by the appellant along with interest accrued thereon be released to the appellant.

NAVIN CHAWLA, J

AUGUST 23, 2023/rv/AS

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