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

+ **MAC.APP. 73/2020**

RAVI KUMAR

.....Appellant

Through: Mr. S.N.Parashar, Advocate.

versus

DHEERPAL SINGH & ORS (UNITED INDIA INS CO LTD)

.....Respondent

Through: Mr. Pankaj Seth, Advocate for R3.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **05.11.2024**

CM APPL. 5771/2020 (delay)

1. The Application under *Section 5* of the *Limitation Act, 1963* has been filed on behalf of the Appellant/Claimant seeking condonation of delay of 335 days in filing the present Appeal.
2. It is submitted that the Award was made on 14.12.2018 while the Appeal has been filed on February, 2020. It is submitted that the Claimant who met with an accident on 31.07.2018, had suffered grievous injuries, which had eventually resulted in permanent disability. It is only after receiving the Disability Certificate that the Claimant approached the counsel and the Appeal got filed. It is only because of the Permanent Disability Certificate becoming available to the Claimant subsequently, that there was a delay in filing of the Appeal.
3. Learned counsel for the Insurance Company has vehemently opposed



the Application and has submitted that there is no cogent reason or explanation for delay in filing the Appeal and the Application is liable to be dismissed.

4. **Submissions heard.**

5. There are cogent reasons given for explaining the delay to which Permanent Disability Certificate being issued only in January, 2020 immediately after which, the Appeal has been filed. Sufficient reasons have been disclosed in the Application. The delay of 335 days in filing the Appeal is condoned. However, the Insurance Company is at liberty to agitate the Issue of payment of interest for this period.

6. The Application is disposed of.

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7. The Appeal under *Section 173 of the Motor Vehicles Act, 1988* has been filed on behalf of the Appellant/Claimant to seek enhancement of compensation in the sum of Rs.10,28,161/- along with interest @ 9% p.a. The Appeal is supported with an Application bearing CM APPL.5772/2020 under Order XLI Rule 27 CPC for leading additional evidence to prove the Permanent Disability Certificate dated 08.01.2020 whereby the permanent disability has been assessed at 63% by the GTB Hospital. It is submitted that the Claimant may be allowed to prove the Permanent Disability Certificate, which had been issued after the Award has been announced and also to adduce additional evidence to prove the loss of earning capacity.

8. Learned counsel on behalf of the Insurance Company has opposed the Application by asserting that this Permanent Disability Certificate cannot be now permitted to be taken on record as it is an afterthought.

9. **Submissions heard.**



10. The Permanent Disability Certificate has been issued subsequent to the Award and therefore, could not have been possibly produced before the learned Tribunal. To say that it is an afterthought, may not be acceptable considering the fact that this is issued by the Medical Board of GTB Hospital. Without prejudice to the rights and contentions of the parties, the Application is allowed and the case is remanded back to the learned Tribunal to take additional evidence in regard to the Permanent Disability Certificate and to decide the quantum of compensation afresh. As already observed, learned counsel on behalf of the Insurance Company, shall be at liberty to submit in regard to the grant of interest for the period of delay in filing the Appeal.

11. The parties are directed to appear before the learned Tribunal on 18.11.2024.

NEENA BANSAL KRISHNA, J

NOVEMBER 5, 2024/RS