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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ MAC.APP. 785/2019 & CM APPL. 40923/2019, CM APPL.
40924/2019

VIOND SAINI Appellant
Through: Mr. S.N. Parashar, Adv.

versus

CHHITIJ KUMAR & ORS (THE ORIENTAL INSURANCE
CO LTD) Respondents
Through: Mr. Pawan Kumar Vashishth,
Adv.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

% **ORDER**
01.04.2024

1. There is no contest by respondent No.1 & 2, who are the driver and the registered owner of the offending vehicle respectively.
2. Learned counsel for respondent No.3 appears and seeks accommodation. However, having regard to the broad facts and circumstances of the case, this Court finds that the matter can be conveniently disposed of today itself.
3. No reply has been filed to the application for condonation of delay of 539 days made on behalf of the appellant. The delay is condoned for the reasons spelled out below.
4. Suffice to state that the motor accident in question occurred on 14.03.2015 and the impugned judgment-cum-award was passed on 04.07.2017. It is a case where the appellant appears to have suffered a permanent disability to the extent of 57.3% besides loss of his eye



sight.

5. Learned counsel for the appellant has pointed out that during the course of proceedings before the learned Tribunal, the permanent disability could not be assessed by the doctors and it was only later on after the impugned judgment that the Medical Board assessed the issue of permanent disability.

6. Since the amount of compensation awarded has already been released to the appellant and there is no issue with regard to violation of any terms and conditions of the policy of insurance, the appellant should be afforded an opportunity to lead evidence on his permanent disability and thereby enable the learned Tribunal to assess just and reasonable compensation to the appellant.

7. Thus, the appeal is allowed and the present matter is remanded back to the learned Tribunal with directions to re-examine the issue of permanent disability suffered by the appellant after affording him and an opportunity to lead evidence as per law and the matter be decided afresh with regard to the quantum of compensation with interest.

8. The parties shall appear before the learned Tribunal for further proceedings on 01.05.2024.

9. The present appeal is disposed of accordingly.

DHARMESH SHARMA, J.

APRIL 1, 2024/sa