

Sahabuddin vs.mairazuddin & Ors.

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Court : Delhi

Decided On : Sep-26-2017

Appellant : Sahabuddin

Respondent : Mairazuddin & Ors.

Advocate for Def. : Mr. Pankaj Seth

Judgement :

\$~R-276 * IN THE HIGH COURT OF DELHI AT NEW DELHI Decided on:

26. h September, 2017 + MAC APPEAL No.840/2010 SAHABUDDIN Through:
Nemo. Appellant versus MAIRAZUDDIN & ORS.

... RESPONDENTS

Through: Mr. Pankaj Seth, Advocate for R-3. CORAM: HON'BLE MR. JUSTICE R.K.GAUBA JUDGMENT (ORAL) 1. The appellant suffered injuries in a motor vehicular accident that occurred on 13.03.2006 due to negligent driving of Indica car bearing registration No.UP-13-E-0690, which was admittedly insured against third party risk with the third respondent (insurer). As a result of the injuries, his right leg was amputated, this resulting in he becoming a permanently disabled person, the physical impairment having been assessed by the board of doctors of LNJP Hospital, vide disability certificate (Ex.PW-1/7), to be to the extent of eighty per cent (80%). On his accident claim case (Suit No.371/2006), the motor accident claims tribunal, by its judgment dated 08.07.2010, awarded compensation in the

total sum of Rs.7,74,596/-, calculating it thus:-

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2. 3.

4.

5. 6.

2. Head Amount in (Rs.) Towards loss of dependency allowance 4,49,655/-
Towards loss of two year salary Towards medical bills Towards special diet for all
four years and for future years Towards conveyance allowance for all four years
and for future attendants conveyance Towards mental pain and agony for all years
and disfigure etc., and loss of enjoyment of life 88,680/- 36,261/- 25,000/- 25,000/-
1,50,000/- Total 7,74,596/- The liability to pay the said amount of compensation
with interest @ 8% per annum has been fastened on the insurer.

3. The present appeal was filed by the appellant/claimant submitting that the
award is inadequate.

4. The appeal was put in the list of Regulars as per order dated 11.05.2011. When
it is taken up for hearing, there is no appearance on behalf of the
claimant/appellant. The matter has been heard with the assistance of the counsel
for the insurer.

5. It is noted that in absence of any formal proof, the tribunal went by minimum
wages to evaluate the loss of earnings including that in future. It assessed the
functional disability at eighty per cent (80%). Against this backdrop, the calculation
of compensation under all heads other than that of mental pain and agony,
disfigurement and loss of MAC Appeal No.840/2010 Page 2 of 3 enjoyment of life
is found to be just and proper. However, the composite compensation of
Rs.1,50,000/- under the above mentioned heads seems to be inadequate. The
award granted under such head is treated as one granted for pain and suffering
and, in addition Rs.1,50,000/- is added towards loss of amenities of life.

6. 7. Thus, there shall be a net increase in the award by sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only), which shall carry interest as levied by the tribunal.

8. The insurer is directed to satisfy the enhanced award by requisite deposit with the tribunal within thirty days, making it available to be released to the claimant.

9. The appeal stands disposed of in above terms. SEPTEMBER26 2017 vk R.K.GAUBA, J.

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