

Sanjay Rode vs.amit & Ors.

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Court : Delhi

Decided On : Oct-31-2017

Appellant : Sanjay Rode

Respondent : Amit & Ors.

Advocate for Def. : Mr. Pankaj Gupta, Ms. RESPONDENTS Suman Bagga

Judgement :

\$~R-382 * IN THE HIGH COURT OF DELHI AT NEW DELHI Decided on:

31. t October, 2017 + MAC APPEAL7662011 SANJAY RODE Appellant AMIT & ORS. Through: None versus Through: Mr. Pankaj Gupta for Ms.

... RESPONDENTS

Suman Bagga, Adv. for R-3 CORAM: HON'BLE MR. JUSTICE R.K.GAUBA
JUDGMENT (ORAL) 1. The appellant was the claimant before the Motor Accident Claims Tribunal (Tribunal) in proceedings arising out of the claim case (suit no.1417/2008) instituted by him on 21.05.2008 which was decided by judgment dated 19.05.2011. The tribunal accepted his case that he had suffered injuries in a motor vehicular accident that had occurred on 14.05.2008 due to the negligent driving by the first respondent (driver) of the car bearing registration no.UP-14-AT-0672 which is admittedly registered in the name of the second respondent (owner) and was insured against third party risk for the period in question with the third respondent (insurer). The tribunal found on the basis of the evidence that the

claimant has suffered permanent disability, his functional disability having been assessed to the tune of MAC Appeal No.766/2011 Page 1 of 2 10%. The claimant had pleaded that he was engaged in a private employment at a salary of Rs.14,500/-. No witness was examined to prove the said claim. The tribunal, therefore, went by the minimum wages payable during the relevant period and calculated the loss of future income on that basis. It appears that the claimant had pleaded that he had to remain on leave for a period of 24 days but no proof was adduced. The tribunal awarded compensation in the total sum of Rs.1,87,600/-.

2. By the appeal at hand, the claimant sought enhancement primarily contending that his income as pleaded should have been accepted. On his application (CM159362011) opportunity was given in terms of Order XLI Rule 27 of the Code of Civil Procedure, 1908 to bring additional evidence by virtue of order dated 28.01.2015. The matter remained pending on the board of the Registrar on several dates but no witness was examined under Order XLI Rule 27 CPC. Eventually, on 17.12.2015, it was submitted on behalf of the appellant that he did not wish to examine any witness at that stage.

3. Thus, the opportunity for additional evidence also having been exhausted, there is no evidence brought on record to prove the contention about the earnings.

4. When the appeal is taken up, there is no appearance on behalf of the appellant.

5. The appeal is, thus, dismissed. R.K.GAUBA, J.

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